

ALLEN COUNTY PUBLIC LIBRARY

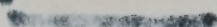



3 1833 00261 0811

GEN

Gc 977.202 F77wiL
Wilson, Wilburn C.
City government in Fort
Wayne

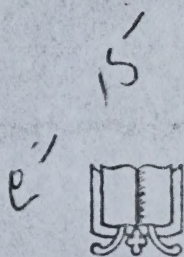
NOV 2 '65





Digitized by the Internet Archive
in 2025

CITY GOVERNMENT
IN
FORT WAYNE



W. C. WILSON

Allen County Public Library⁴
900 Webster Street
PO Box 2270
Fort Wayne, IN 46801-2270

ALLEN COUNTY PUBLIC LIBRARY
900 WEBSTER STREET
FORT WAYNE, IN 46801-2270

25% COTTON

FOX RIVER BOND

1417962

ACKNOWLEDGEMENT

My thanks are due and are hereby tendered to the following persons for their aid and encouragement in the preparation of this pamphlet: Mr. Merle J. Abbett, superintendent of schools of Fort Wayne; Mr. R. Nelson Snider, Principal of South Side High School; Mr. A. V. Flint, Guidance Director of South Side High School; Hon. Harry Baals, Mayor of Fort Wayne; Mr. Louis Crosby, city controller; Mr. Walter Helmke, city attorney; Mr. Leonard Ellenwood, city clerk; Dr. Karl Eberly, city health officer; Mr. Ben Bennett, member of the city council; Mr. John Johnson, member of the Board of Works; Mr. Charles Hess, secretary to the Board of Works; Captain Clarence Cornish, manager of the Municipal Airport; Mr. Adolf Jaenicke, Superintendent of Parks; Mr. Edward Burt, sanitary officer; Mr. Curtis Kettering, secretary to the Board of Public Safety; and all other city officials whom I contacted, who were uniformly courteous and helpful. And I am particularly indebted to Mrs. Helen Sweet, bookkeeper to the Board of Works, for reading the entire pamphlet and making helpful suggestions.

W. C. W.



Charter of the City of Fort Wayne

An act to incorporate the City of Fort Wayne
(Approved February 22^d 1840)

Sec 1

Be it enacted by the General Assembly of the State of Indiana That the district of Country included in the following described limits shall be forever known as the City of Fort Wayne & it is to be enlarged as the City shall increase in population viz Beginning at a point where the west line of section two, township thirty north, Range twelve east, Second Meridian strikes the South side of the St Marys River at low water mark thence along the meanders of said river and the Maumee to a point where the half section line of section one in the township aforesaid touches the Maumee river at low water mark thence south to a point eight perches beyond the south line of section one aforesaid thence west to the St Marys River and thence down along the meanders of said river to the place of beginning.

Sec 3

The inhabitants of said City shall be shall be a corporation by the name and description of the City of Fort Wayne & by their corporate name shall be able & capable in law & equity to sue & be sued to plead & be impleaded to answer & be answered unto, defend & be defended in any & all courts of competent Jurisdiction & shall have power to make & use a Common Seal and the same to break alter & amend at pleasure to take hold purchase & convey such real & personal estate as the purposes of the Corporation may require

Sec 3^d

Certificate of the Inspectors of the Charter Election

We the Inspectors of an election held in the
Town of Fort Wayne in pursuance of law be-
tween the hours of 8 & 10 O'clock A.M. on the first
Monday in March 1840 for the purpose of as-
certaining whether or not the Citizens of said
Town would adopt or reject a Charter presented
to them Do Certify that there were one hun-
dred and sixteen votes in favor of said Charter
and fifty three votes for "no charter".

We Do
therefore certify that said Charter is adopted
by the citizens aforesaid according to Law—

R. A. Dawson }
J. C. Hill } Inspectors
Thomas Hamilton }

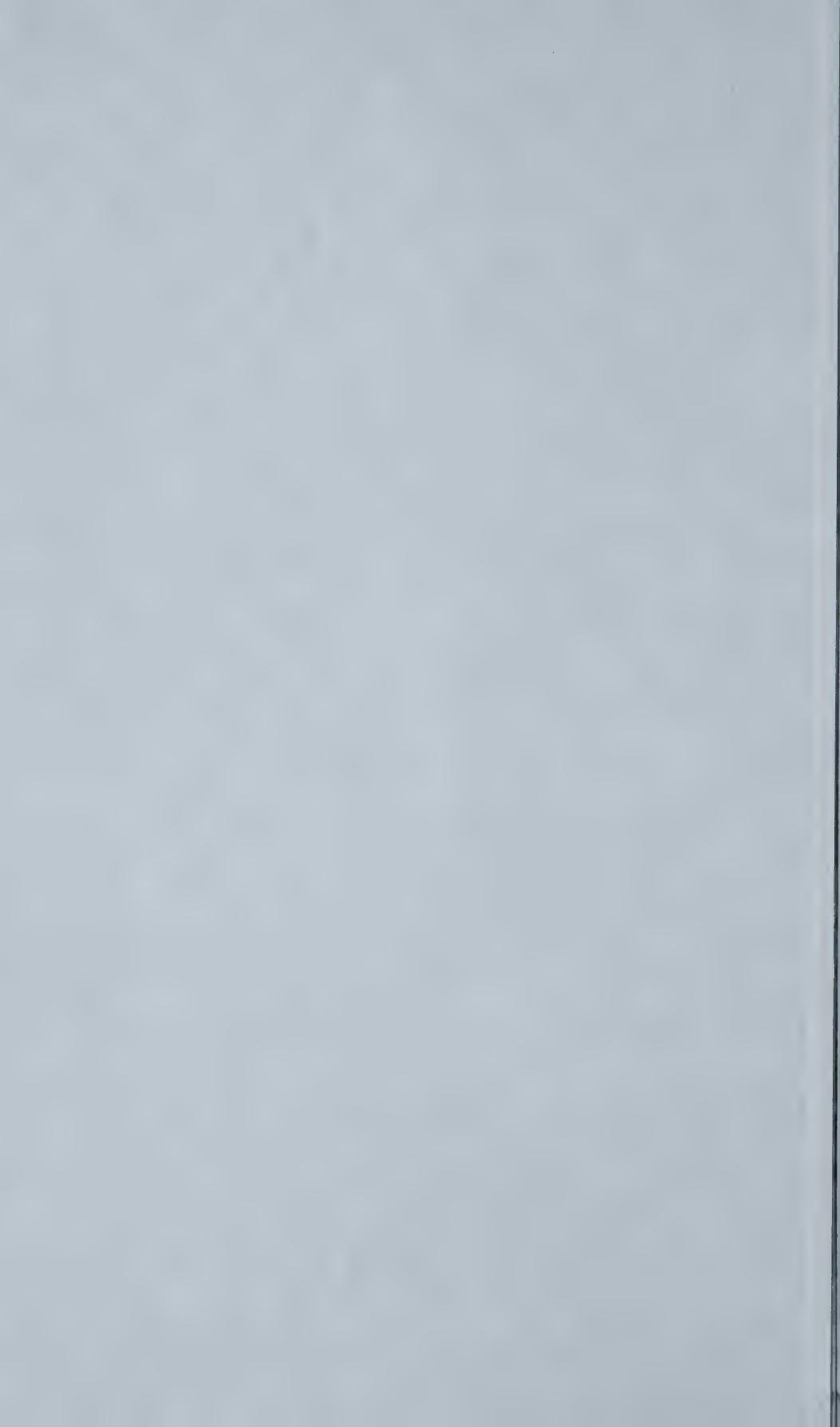
L. S. Moses }
Egbert V. Benaway } Clerks

Certificate of election inspectors announcing official
adoption of the first city charter.

COPYRIGHT, 1940

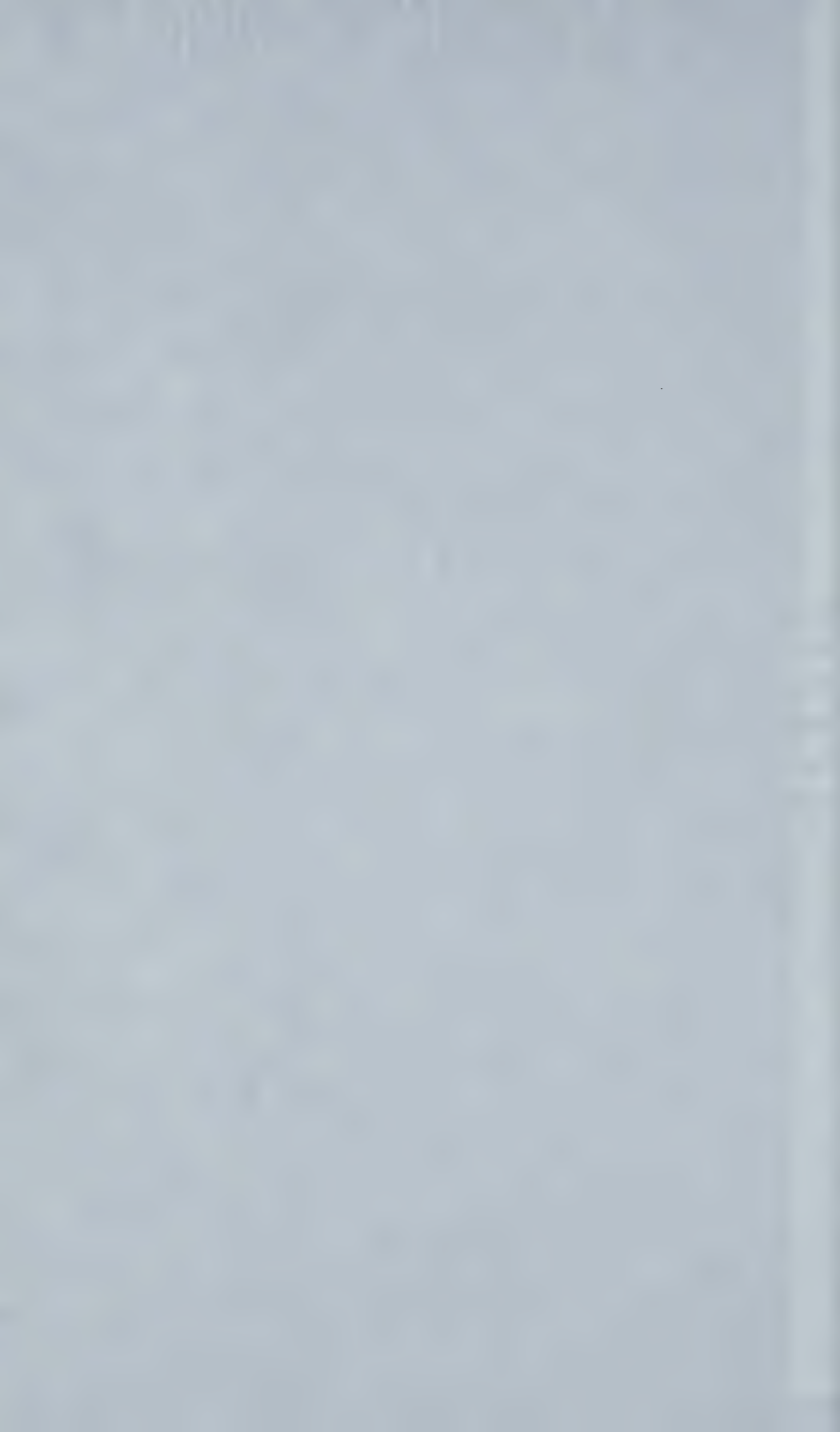
By

W. C. WILSON



CONTENTS

	Page
Introduction	
The City Charter	1
The Common Council	4
The Executive and Administrative Branch	9
The Judicial Department of the City Government	42
Political Parties	44



“Municipal institutions constitute the strength of free nations. A nation may establish a system of free government but without municipal institutions it cannot have the spirit of liberty.”

—De Tocqueville

“To make the city is what we are here for. He who makes the city makes the world. For whether our national life is great or mean depends on the city.”

—Henry Drummond.

“Generally speaking the proportion which the aggregate of other classes of citizens bears in any state to that of its husbandmen, is in the proportion of its unsound to its healthy parts, and is a good enough barometer whereby to measure its degree of corruption.”

“Let our workshops remain in Europe—The mobs of the great cities add just so much to the support of pure government as sores do to the human body.”

—Thomas Jefferson

“It is the cities that supply the leaders in all branches of activity; political, social, and economic.—It is the cities that mould the public opinion of the nation to a large degree. No country can change from a rural to an urban land without some transformation in its political temperament.”

—William B. Munro

“The whole tendency of city life is towards docility and the extinction of independence in thought and action.”

—William B. Munro.

l
n
t
l
t
v
t
c
t
t
t
e
t
e
y
t
F
n
c
e
c
p
v
-

Introduction

One of the most striking social phenomena of modern times has been the urbanization of all the major countries of the earth. The rapidity with which this has occurred is astounding to the observer and disconcerting to those whose province it is to discover or devise ways and means of coping satisfactorily with the manifold and complex social and governmental problems resulting from it.

Nowhere has urbanization proceeded more rapidly or brought more pressing problems in its wake than in the United States. In 1830, the United States contained fewer than twenty places having a population exceeding eight thousand. All of these places combined contained less than seven percent of the total population¹. In 1930, there were more than one thousand such places in the United States containing 49.1 percent of the total population. Almost twenty-five per cent of our population dwelt in thirty-seven cities of two hundred fifty thousand or more people²; and fifty-six and two tenths per cent of the total population dwelt in communities having populations of twenty-five hundred or more³. Our own city, Fort Wayne, as recently as 1890 had a total population of approximately thirty-five thousand. By 1920, this had increased to eighty-six thousand, an increase of more than two hundred per cent in the brief space of forty years. There was a further increase of more than thirty percent in the ten-year period, 1920-1930⁴.

We are a nation of cities. This is a fact of great social significance. For as Professor Munro points out "the influence of cities upon the national life is much greater than their numerical strength in the census figures would imply."⁵

This influence is both good and bad. To those who hold the views expressed by Drummond, or Tocqueville, or Munro, the rise and spread of cities will seem to be all gain. To those who hold the views expressed by Jefferson⁶, it will seem all bad. As a matter of fact neither view is entirely correct.

¹The Government of the United States, Munro, Page 662
(Third ed.)

²Statistical Abstract of the United States, 1938, Page 6

³Id.

⁴World Almanac, 1939, Page 314

⁵The Government of the United States, Munro, Page 663
(Third ed.)

⁶See quotations preceding page.

INTRODUCTION

But this much can safely be said. A nation composed chiefly of city dwellers cannot be healthy socially or politically unless its cities are healthy. A superstructure of honest, wise, and just, National and State governments cannot be erected upon a rotten foundation of corrupt and decadent cities. Or if erected by some miracle they will not long survive.

It is literally true that city government today forms the foundation of all our government. Successful State and National political and governmental machines and machinery are largely combinations of powerful and well-organized city machines and machinery.

It therefore behooves every citizen today to know something of city government, and particularly of the government of his own city, if for no other reason than self-defense. Yet most people know very little about this phase of government. People who follow the course of our foreign relations, and feel competent to advise the Secretary of State thereon, or who follow the doings of the national congress and express their opinions concerning them with considerable assurance, often do not know what agency of their local government to contact if the street in front of their house blows up or the garbage is not collected. They do not know whom to praise nor whom to hold responsible.

It is the primary purpose of this little handbook of city government of Fort Wayne to outline briefly the general organization of the machinery of government in the city, and set forth, even more briefly, the duties and functions of the major officials. It is not intended to exhaust the subject or even to introduce the reader to it adequately. It does not purport to tell the whole truth; but it is hoped that it contains nothing but the truth. Where errors exist they will be cheerfully corrected, when called to my attention. Where opinions are expressed it will be evident; and nobody is expected to accept them as his own.

The booklet was put together primarily for the use of my students in the government classes at South Side High School. In the past there has been a dearth of usable material on the subject of our local city government. While there exists an abundance of material in the form of official reports, newspaper stories, government directories, etc., it is too scattered to be usable. Moreover, it does not set forth the legal basis of city government, a slight knowledge of which seems to me essential. It is hoped that bringing this information together in one booklet will be an aid to the pupils.

The chief source of reliance has been Burns Statutes Annotated, supplemented by personal interviews with the officials of our city government.

2
t
u
e
c
F
t
F
k
n
t
e
t
a
1.
3.
ci
ty
er

FORT WAYNE CITY GOVERNMENT

Chapter I

The City Charter

The basic or fundamental law of a state or nation is known as its **Constitution**. The basic or fundamental law of a city is known as its **Charter**.

City charters may be classified according to many different bases. Two of the most common bases are: 1. the method by which the charter is granted, and the number of cities to which it applies, and 2. the type of government established by the charter. When a city operates under a charter which applies to all cities in the state, or to a large group of cities, it is said to operate under a **general** charter. When it operates under a charter which applies to itself only it is said to possess a **special** charter. If the special charter has been drafted by the people of the city thru an elective commission and approved at a popular election it is called a **Home-Rule** charter. In some states the legislatures draw up various plans outlining several forms of government and place them on the statute books. Cities are then permitted to choose between the plans proposed. This method of granting charters is known as the **optional** plan because the cities are permitted to take their option or choice of the plans presented by the legislature¹.

Cities may be classified into three major types of city government, according to the type of government for which the charter provides: 1. The **Council-Mayor** (or **Federal**) type, 2. The **Commission** type, and 3. The **Commission-Manager**, or **City-Manager**, type. Another form of city government less common but growing in favor is the **City-County** type. This is merely a consolidation or merging of city and county governments in those counties in which large cities are located.

¹In 1921, the General Assembly placed upon the statute books Model Commission and Commission-Manager plans which the people might adopt by referendum. But this law was declared unconstitutional by the Supreme Court of Indiana about five years later as violating Article 3 of the State Constitution. Michigan City had already adopted the Commission-Manager plan and had been proceeding under it for five years.

Chapter I

Cities have no inherent powers¹. In Indiana, all charters are granted by the state either directly by action of the legislature or indirectly by special procedure provided by it.

The first charter of Fort Wayne was a special charter. That is, it applied to only one city in the state, Fort Wayne. It was written in longhand by Franklin P. Randall who became the first city clerk of Fort Wayne, and a copy of it is kept on file in the office of the city clerk, where it may still be seen. This charter was approved by the state legislature on February 22, 1840, and was voted upon the first Monday in March, 1840. The people were permitted to choose between the adoption of the proposed charter or no charter. One hundred sixteen voters declared themselves in favor of the charter, while fifty-three voted in favor of "no charter," a total vote of one hundred sixty-nine votes out of a population of two thousand eighty². The charter was thereupon declared adopted. The charter provided for the election of a president, or mayor, and a board of six aldermen who were to select the minor officials of the city.

As time went on the method of granting charters, or amending them, by special act of the General Assembly proved highly unsatisfactory. As cities increased in number and in size, their demands upon the time of the legislature became very heavy. Most of the time and energy of the General Assembly was given to the passage of special and local legislation with which it was incompetent to deal, rather than to the consideration of matters involving the general welfare. As a result, when the present State Constitution was adopted in 1851, it prohibited special and local legislation in more than seventeen specifically enumerated matters; and in all other cases where general legislation could be made applicable. This provision of the Constitution is frequently evaded or ignored, and special and local legislation pertaining to only one city in the State will be passed in the guise of, or on the pretense of, being general legislation.

Today the state employs a modified, general charter system. There is no one document to which the citizen may turn to read Fort Wayne's charter of government, for it does not consist of a single document but of a series of laws passed at different times by the General Assembly of Indiana, and placed upon the statute books, but

¹"Cities possess such inherent and implied powers as are necessary to accomplish the purposes of their organization."—*Crawfordsville V. Braden*, 130 Ind. 149; *Scott V. Laporte* 162 Ind. 34; 68 N. E. 278. "Cities can only exercise such powers as are authorized by a strict construction of their charters."—*Lafayette V. Cox*, 5 Ind. 38; *Elkhart V. Lipschitz*, 164 Ind. 671.

²*Pictorial History of Fort Wayne*.—Griswold, P, 348.

Chapter I

never compiled into a single document. It includes also, properly speaking, not only the acts of the legislature but the judgments of the courts interpreting the laws as well; and the provisions of the State Constitution dealing with Municipal Corporations¹ or applicable to them. The General Assembly divides the cities of the state into several classes (five at the present time) based upon size or population, and wealth or taxes paid. The present cities classification act was passed in 1933 and amended in 1935². This act classifies cities solely upon the basis of population as follows:

Population by Preceding Census	Class
250,000-	First
35,000-250,000	Second
20,000- 35,000	Third
10,000- 20,000	Fourth
2,000- 10,000	Fifth

It will be noted that according to this classification, Fort Wayne is a second class city and as such the form of government set up for her is common to all second class cities of the State, with a few exceptions³.

¹Article 13

²Acts of the General Assembly, 1933, Page 1042, Chapter 233

³For example the Act of 1933 combined the Board of Works and Board of Safety into a Board of Works and Safety in all second class cities except those owning and operating a municipal water-works and electric light plant," which exempts Fort Wayne from having to combine the two boards named,

Chapter II

The Common Council

The legislative or lawmaking branch of our city government is known as **The Common Council**.

COMPOSITION—The Common Council of Fort Wayne is composed of nine members at present. The size of the Council is fixed by State law and varies from time to time according to the will of the General Assembly. Until 1933 there were sixteen members. In that year the General Assembly reclassified the cities of Indiana on a strictly population basis and outlined the form of government for each of the five classes established. Under this law, Fort Wayne is a city of the second class and is governed essentially like all other second class cities of the State (cities having a population of 35,000-250,000 according to the 1930 census). The Councils in all second class cities of Indiana consist of nine members, elected at the same time State and County officers and United States Congressmen are elected. The city is divided into six councilmanic districts. One Councilman is elected from each district by the voters of that district, and three are elected at large (i. e., by the voters of the entire city). Each voter is therefore permitted to vote for four councilmanic candidates—one from his own district and three at-large.

The legally required qualifications of Councilmen are very low¹. They do not have to be property holders². They do not even have to be citizens of the United States³. This does not mean, however, that they are necessarily and always unqualified for their positions. They are usually business men of the city who devote only a portion of their time to the business of city government. They must have some other source of income inasmuch as the salaries of Council members are very low, the maximum salary possible under the Statutes being \$1,000.00. The Council fixes the salaries of its members by ordinance in September preceding the city election, for the ensuing four years, subject to

¹They must be residents of the city for one year prior to election, and residents of the wards they represent for six months previous to election. They automatically cease to be members of the Council when they cease to reside in the wards they represent.—Burns Statutes Annotated. 48-1242

²Burns Statutes Annotated. 48-1243

³Connell V. State ex. rel. Thompson 136 Ind. 421; 144 N. E. 882

Chapter II

the maximum fixed by the state. The salary of the Councilmen at present is \$600 per year.

VACANCIES—The Council is empowered to fill vacancies which may occur in its membership due to deaths, resignations, etc., by election. Where the Council membership is evenly divided among the political parties it may be difficult, or even impossible, for the members to agree upon any one to fill the vacancy. In such a case the vacancy continues until another general election is held. Such a situation existed in 1938. The Council consisted of four Democrats and four Republicans with one vacancy.

MEETINGS OF THE COUNCIL—Regular meetings of the Council are held in the Council Chamber on the second floor of the City Hall, at the southeast corner of Barr and Berry Streets, at 8:00 o'clock, on the second and fourth Tuesday evenings of each month¹.

These meetings are open to the public. Any citizen who wishes to attend may do so. Ordinarily the meetings are poorly attended. Formal sessions of the Council are usually brief and undramatic in nature. The Council is not invested by the public with "The glamour that doth hedge a king," nor does it possess the enchantment that distance lends to the view. Rather it suffers the contempt that is bred of familiarity. Being close to the citizens the significance of its work is usually unappreciated by them.

POWERS OF THE COUNCIL—Unlike the State, whose creation and local agent it is, the city possesses no inherent powers. All the legislative authority which the Common Council possesses it derives from the State, and it is strictly limited. Its jurisdiction or legislative authority extends only to the city limits². Its chief functions are to determine the governmental policy of the city generally, approve the budget and fix the tax levy for the Civil City, regulate local traffic, provide fire and police protection, establish a system of water supply and sewage disposal, provide for the construction of streets and alleys, and for their lighting, cleaning, and maintenance, provide for the regulation of business locally, and set up inspection agencies to protect the people against disease, fraud, short weights, etc. As has been said, the Council also fixes the salaries of other city officials subject to the limitations set up in the Statutes.

¹The first session of the first Council of the City of Fort Wayne was held on March 7, 1840. At this session it elected a clerk, treasurer, marshal, tax collector, lumber measurer, attorney, and street commissioner.—Pictorial History of Fort Wayne, Griswold, 348-9.

²There are a few exceptions. The authority of certain administrative Boards, the Park Board for example, extends beyond the city limits. Proper functioning by these boards is often dependent upon council action.

Chapter II

ORGANIZATION¹—The organization of the Common Council is similar to that of other legislative bodies such as the General Assembly of Indiana or the Congress of the United States. The officers of the Council are as follows: A President, a Vice-President, a Clerk, and a Sergeant-at-Arms.

The president is elected by the Council from among its own membership, as is the Vice-President. These officers serve for one year and may be reelected. They perform the duties usually assigned to such officers in any assembly. The President presides at the meetings of the Council, decides points of order, appoints the standing and special committees, signs all enrolled bills, all ordinances before their presentation to the Mayor for his signature, and the Journal of Proceedings. He receives no extra salary.

The Vice-President presides over the Council in the absence of the President. Except when he presides over the meetings, he possesses no more power or authority than any other member. When both President and Vice-President are absent, the Council may select, by motion, a temporary chairman.

The Clerk of the City Court, who is elected by voters of the city for a term of four years, acts as Clerk of the Common Council also. It is his business to read the ordinances and resolutions introduced, keep the Journal of Proceedings and see that it is printed, act as custodian of all ordinances and documents of the city, notify members of special meetings, and see that all proposed ordinances, resolutions, memorials, etc., referred to the various committees are delivered to the chairmen of these committees within three days after the Council meeting at which they have been so referred.

The Sergeant-at-Arms is the errand boy and peace officer of the Council and Clerk. He presents the flag (i. e. places it in its stand to the right of the President's desk) at the opening of each session. He maintains order within the Council Chamber and the halls. He delivers the notifications of special meetings to the Councilmen for the Clerk, as well as the bills and other papers referred to committee chairmen. He is a member of the city police force.

COMMITTEES—The real work of the Council is done by various standing and special committees². There are at present (1939) seventeen standing (i. e. permanent or continuing) committees. Special committees are appointed from time to time to deal with particular matters not ordinarily dealt with in the regular or routine course of business.

¹Rules of the Common Council, City Government Directory, 1939.

²Committees are appointed from time to time to deal with particular matters not ordinarily dealt with in the regular or routine course of business.

Chapter II

The names of the committees indicate the type of legislation with which they deal. For example, the Finance Committee deals with taxation and appropriation ordinances; the Aviation Committee with legislation concerning the municipal airport and air traffic in general, etc. Other committees are those on Rules, Regulations and Ordinances; Printing; Election; Contracts and Franchises; Fees and Salaries; Electric Light; Streets and Alleys; Sewers; Water Works; Parks and Public Buildings; City Plan Commission; Public Health; Track Elevation; Claims; and Flood Prevention.

The chairmen of the committees are appointed by the President of the Council as are the other members of the committees.

The committees vary in size from three to five members. The size of the various committees is fixed by the rules of the Council.

PROCEDURE—Procedure in the Council is governed by a set of rules adopted at the first session of each Council. Roberts Parliamentary rules govern in all cases not specifically covered by the regular rules of procedure.

The regular order of business is as follows: The President raps the table smartly with his gavel and calls the meeting to order. The Sergeant-at-Arms presents the flag while all members stand. The roll is called by the clerk and, if a quorum (majority of all members elected) is in attendance, the Council proceeds to business. The Journal of the preceding meeting is read by the Clerk, and corrections are made. Communications from the various administrative officials of the city are next taken up for reading and action. Communications from the Mayor are dealt with first, followed by those from the Comptroller, the City Attorney, the Board of Public Works, Board of Public Safety, the Board of Public Health, the Park Board, the Aviation Commission, the City Planning Commission, etc. in that order.

Reports of the standing committees are heard next, beginning with the Finance Committee and ending with the Committee on Flood Prevention. These reports are followed by the reports of the select, or special, committees, if any, the introduction of appropriation ordinances, introduction of general and special ordinances, introduction of miscellaneous business, ordinances on second reading, appropriation ordinances on third reading, unfinished business, and new business.

The Council may return to any order of business after the call of the regular order of business. The spirit rather than the letter of the rules is observed, literal adherence being the exception rather than the rule. The rules may be amended at any time.

ORDINANCES—Ordinances are divided into three distinct classes as follows: Appropriation ordinances, special ordinances, and general ordinances relating to the government of the city.

Chapter II

Every ordinance and communication, in order to be discussed by the council, must be signed by one of its members.

All ordinances must be read at least twice by the Clerk, the first time in full and second time by title, after which they are referred to the proper committees and are open for amendment. No ordinance may be passed the same day it is introduced except by unanimous consent.

In order to become law, proposed ordinances, resolutions, etc., must be approved by a majority of all the members constituting the Common Council, and signed by the Mayor. In case the Mayor disapproves the ordinance, his veto may be overridden by a two-thirds majority vote of the Council members. The Mayor may veto separate items in appropriations and tax-levying ordinances.

SPECIAL MEETINGS—Special meetings may be held upon the call of the Mayor or of any five members of the Council, but no business may be transacted at such meetings except that specifically mentioned in the call.

Note: The legal basis of the Council's organization, powers, etc., will be found in Burns Statutes Annotated, 48-1401-1407,

The Executive and Administrative Branch

The executive and administrative branch of city government is that branch whose business it is to enforce, or administer the laws which apply to the city, whether they be local ordinances or legislative statutes. It is the largest of the three branches of city government in point of numbers employed. It includes not only the Mayor and his subordinates, but policemen, firemen, and all other city officials and employees whose primary function is the administration of government and the enforcement of law. Employees of this branch take the water you use from the river, filter it, purify it, send it out to your house, measure it, and charge you for it; test the water you drink and the milk you use, inspect dairies, restaurants, etc., to protect you against disease; check the scales of the city to prevent your being cheated by dishonest merchants; light the streets and patrol them to protect your lives and property; maintain recreational facilities to promote your health, construct and maintain streets for your greater comfort, convenience, and profit; and in short, constantly carry on innumerable activities, all to the end that you may live longer, more safely, and more happily.

THE MAYOR—The chief executive and administrative officer of the city is the Mayor.

Election—Each of the major political parties nominates a candidate for Mayor at a primary election held in May of election years. One of these candidates is then elected by popular vote at an election held in November of the same year.

It is generally agreed by students of government that city elections should be held at different times than general, or state and national elections, in order that local attention may be centered upon local issues and local candidates. Where this is not done, strong national and state tickets, or machines, may carry a very weak local ticket into office, inasmuch as the most regular voters tend to vote a straight ticket for fear of losing their votes; or national and state issues which have nothing to do with good city administration may be introduced into local contests, confusing the voters and obscuring the real issues. It is also generally agreed that when city elections are held at the same time as state and national elections, city officials should be voted upon by separate and distinct ballot for the reasons just cited. Politicians, however, tend to regard this matter from the standpoint of expediency rather than from the standpoint of political morality. That is, if the party is weak locally or the candidates are



Chapter III

unfit, or the issues vague, while the state and national party organizations are strong, the candidates able, and the issues stimulating, the local political organizations will naturally desire joint elections on a single ballot. When the reverse is true, local political leaders will desire separate elections, or at the least separate ballots.

Prior to 1933, Fort Wayne city officials were elected the year following national and state elections. But in that year the General Assembly enacted a law¹ postponing all city elections for one year, thus causing local and general elections to be held at the same time thereafter.

When the candidates are too numerous to place all the names on one ballot the names of the candidates for city offices may be placed upon a separate ballot by the election officials. (This was the case in the elections of November, 1938).

Term—The term of the Mayor is fixed by the law at four years. The term may be reduced in length at any time by act of the General Assembly. Whether it may constitutionally be increased in length by the legislature is questionable, inasmuch as the constitution of Indiana provides that "the General Assembly shall not create any office the tenure of which shall be longer than four years."² Nevertheless, the General Assembly of 1933 did, in fact, extend the term of the incumbent mayors to five years when it postponed elections for one year by the law previously mentioned.

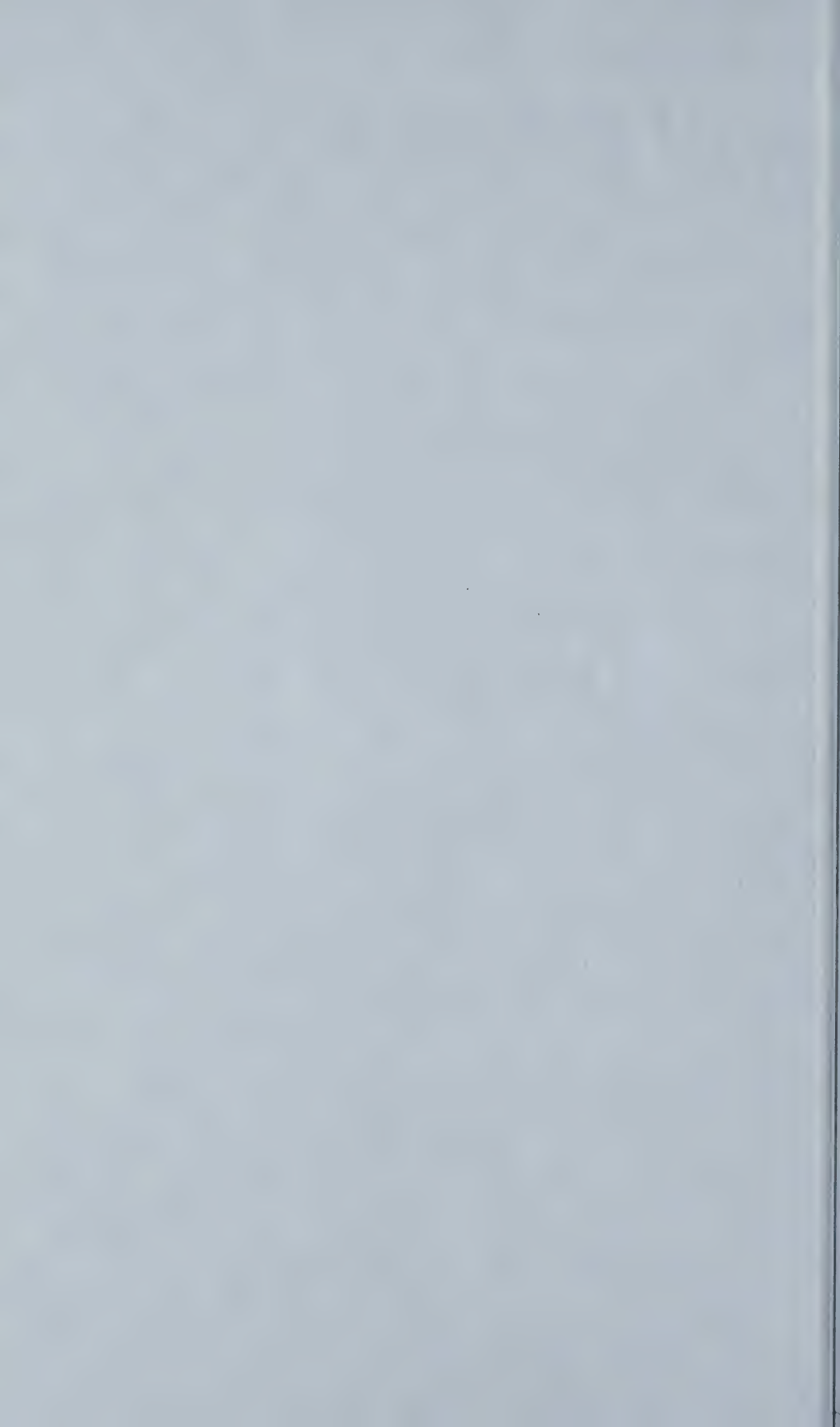
Qualifications—Under the constitution the Mayor need not be highly qualified³. In fact, the constitution is silent on this subject, setting forth no requirements whatever. The General Assembly may establish whatever requirements it will, provided they are reasonable. An act of the legislature in 1905 specifically provided that "no property qualifications shall be necessary to render any citizen eligible to hold any office of any municipal corporation in this state."⁴ Party and popular requirements are usually higher than the legal requirements for any office. This is true of the Mayor's office. But about all that is required at present is that the Mayor be a resident elector, and sufficiently popular or powerful to get himself elected.

¹Acts of Indiana General Assembly, 1933. ch. 173. Page 878

²Article 15, Section 2

³He must have resided in the city for one year immediately preceding election and must continue to reside therein.—Burns 48-1242

⁴Burns Statutes Annotated 38-1243. No. (11087). Acts 1905, ch. 129, Section 229, P. 219. He must be a resident of the city for one year immediately preceding elections.—Burns. 48



Chapter III

Salary—The maximum salary of all major city officials of Indiana, except those which own and operate two municipal utilities, is fixed by the Cities Classification Act of 1933. The maximum salary of the Mayor in most second class cities is fixed at \$5,200¹ per year, plus not to exceed \$600 additional from the utilities funds in those cities owning and operating any public utility,² by this act. The council is charged by law with the responsibility of fixing the annual salaries of all major city officials by ordinance enacted on or before the first day of April in the years in which city elections are held, such salaries to remain unchanged during the terms of the officers elected at the ensuing elections.

These salary provisions, it will be seen, do not apply to, or are not mandatory upon Fort Wayne, since the city owns and operates two municipal utilities, an electric light plant, and a water filtration plant. The salaries of Fort Wayne officials are, therefore, still governed by a law passed in 1929. This law provides that the Mayor's salary may not be less than \$5,200 nor more than \$7,500, the actual salary to be fixed by the council.³

Removal From Office—The Mayor may be removed from office before the expiration of his term by death, resignation, or impeachment and conviction by the Common Council, subject to the right of appeal by the Mayor to the circuit or superior court of the County.⁴ In case the Mayor appeals to the court from a removal order of the council the order is suspended until "final and conclusive" judgment of the court, which must be given within ten days. A two-thirds vote of the Council is necessary for impeachment and conviction.

Succession to the Mayoralty—In case of a vacancy in the office of Mayor, the comptroller (controller) succeeds to the office.⁵

Powers and Duties—The Mayor of Fort Wayne is a "strong" Mayor. His appointive and removal powers are very considerable.

¹Acts of Indiana Assembly, 1933, ch. 233, Section 12, P. 1051

²Acts of Indiana General Assembly, 1933, Section 21, P. 1055

³Acts of Indiana General Assembly, 1929, ch. 158, Sec. 20, P. 490. Salaries of other city officials are fixed by this same law.

⁴Burns Statutes Annotated. 38-1469 (10285); Acts 1905, ch. 29, Section 54, P. 219. Muhler V. Hedekin, 110 Indiana 482, 20 N. E. 700—"Common Councils of cities may remove for cause any city official, whether elected by the Council or by the people."

⁵Burns Statutes Annotated 48-1246 (19276); Acts 1905, ch. 129, Section 45, P. 219 Note: In cities having no controller, the Common Council designates one of its members to act as Mayor *pro tem* until a special meeting of the Council not less than ten nor more than fifteen days thereafter at which the Council elects a successor to fill out the unexpired term.



Chapter III

His appointments for the most part do not require the approval of the Council. And there are few legal limitations upon his power of removal.

The Classification Act of 1933 provides that "All appointive officers, deputies, employees, assistants, and departmental and institutional heads not provided for under the provisions of this act, but which are provided for by laws or authority of law now in effect, shall not be considered as abolished by this act, but such appointments shall be made by the Mayor within his discretion as to number and positions named under laws or authority of law now in effect, and such officers, deputies, employees, assistants, and departmental and institutional heads shall serve at the pleasure of the Mayor, who may terminate their office or employment at any time."¹

This law also authorized the Mayor to appoint all necessary assistants in any office, board, commission, etc., in an emergency, when such appointment is not specifically provided for by law, and to fix the salaries of such as are not fixed by the Common Council, subject to the approval of the Council which may reduce but not raise the salaries as fixed.

The Mayor is empowered by law to fill vacancies which may occur in any elective office of the city except those of Mayor, Judge, or councilman, for the unexpired term, subject to the approval of the Council.²

The law provides that the Mayor shall call together the heads of the departments (except that charged with the assessment and collection of taxes) at least once a month for consultation and advice upon affairs of the city; and call upon the heads of the departments for reports in writing.³

He may, at will, appoint auditors (three competent persons) to examine, without notice, the accounts of any department, officer, or employee, and report thereon.⁴

It will be seen from this brief and partial resume of the appointive, removal, consultative, and investigative powers of the Mayor, that

¹Burns Statutes Annotated. 48-1222; Acts of General Assembly, 1933, ch. (Note---Italics mine.)

²Burns Statutes Annotated. 38-1246; Acts 1905, Ch. 129, Section 145, P. 219; Act 1909, ch. 188, Section 2, P. 454.

³Burns Statutes Annotated. 38-1502 (10295). Acts 1905, ch. 129, Section 79, P. 219.

⁴ibid.

Chapter III

he is given a sufficient degree of control over the personnel of the executive and administrative branch of city government to warrant the citizens in holding him strictly responsible "for the good order and efficient government of the city," as the law says he should be.¹

As has been noted previously (P. 8) the mayor is also given some degree of control over the legislative branch of city government through his power to veto ordinances.

ADMINISTRATIVE BOARDS—The actual administration of the city government is divided among various departments, each of which is presided over and directed by an administrative board composed of from three to five members appointed by the Mayor to serve at his pleasure.² Even though the law specifies that the members of some of these boards shall serve "during good behavior"³ their terms cannot exceed four years because of the Constitutional provision previously mentioned prohibiting the General Assembly from creating any office the tenure of which exceeds four years.⁴ Some of these boards are composed of members who give only a portion of their time to the business of city government; while others are full-time boards (i. e. devote all their time to city government). In some cases the law establishes certain qualifications, or requirements, which members appointed to these boards must possess. For example, an act of 1905 specifies that persons appointed to the Board of Public Safety by the Mayor "shall be of good moral character, and be able to speak and write the English language."⁵ In other cases no particular qualifications are established by law.

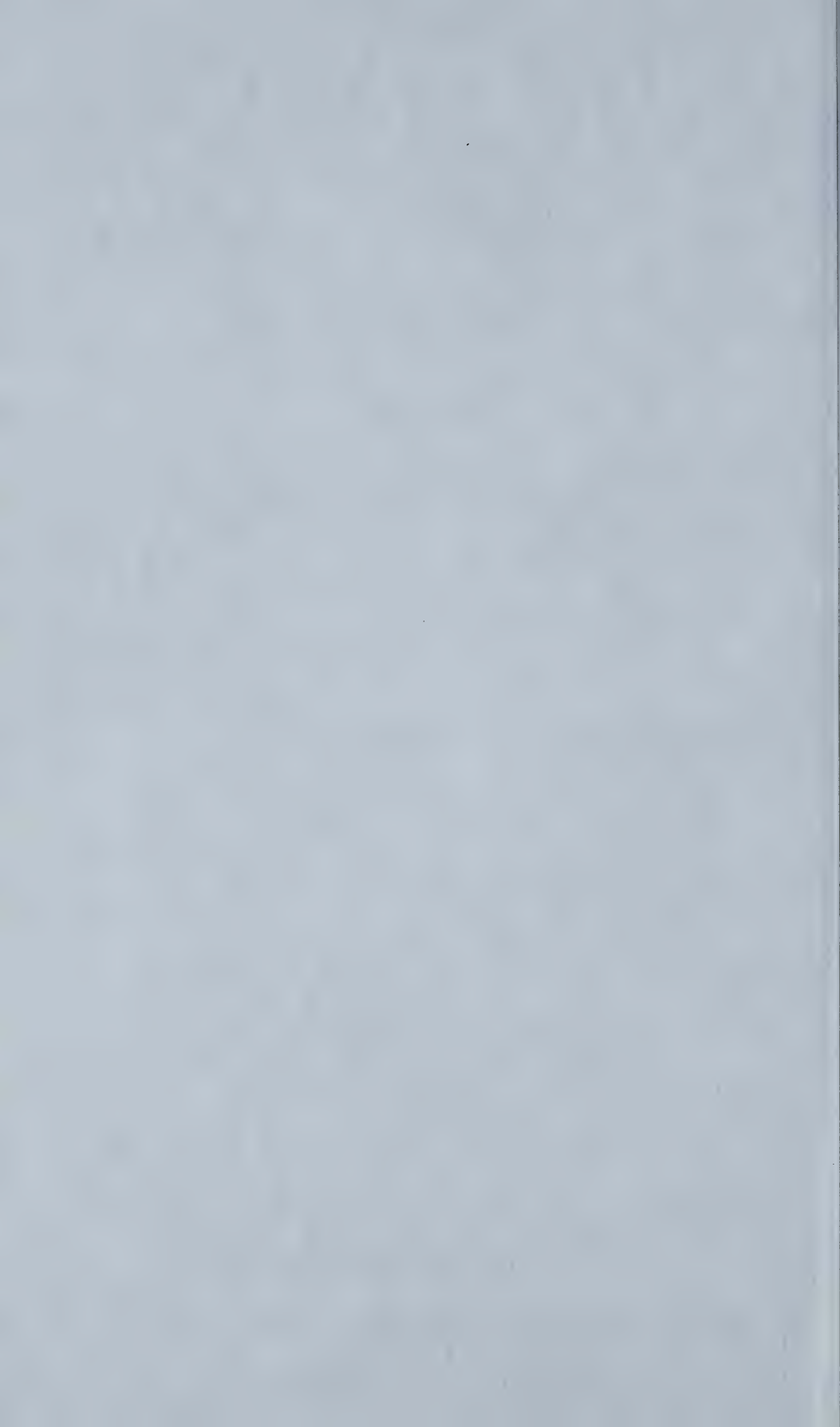
The administrative departments are, in many cases, broken down into, or perhaps one should say composed of, various divisions, offices, institutions, and individuals. But inasmuch as there is apparently no definite or established order of organization or of terminology, no generalizations are possible on this score. For example, the City Government Directory of 1938 lists as being under the supervision of the Board of Public Works the office of City Engineer, the Asphalt Repair Plant, the Building Department, etc. Perhaps it would simplify our plan of city government, or make it more understandable, if some regular form of organization with standard terminology were employed.

¹Burns Statutes Annotated. 38-1502 (10295). Acts 1905 ch. 120, Section 79, P. 219.

²Or by a single appointive or elective official.—e. g. City Clerk, Controller, etc. These are discussed later.

³e. g. The Board of Public Safety. Burns Statutes Annotated 38-6101 (10809) Acts of 1905, ch. 129, Section 158, P. 219; 1907, ch. 111, Section 1, P. 168.

⁴Article 15, Section 2; Klink V. State ex rel. Budd, 207. Indiana 628; 194 N. E. 352. ⁵Burns Statutes Annotated. 38-6101.



Chapter III

The principal administrative boards and commissions of the city are The Board of Public Safety, The Board of Public Works, The Board of Park Commissioners, The City Plan Commission, The Board of Zoning Appeals, The Aviation Board, and The Board of School Trustees.

Inasmuch as the work of these various boards and commissions is quite extensive and very important, it is advisable to examine them in a little more detail.

THE BOARD OF PUBLIC SAFETY—Every citizen, young or old, no matter how ignorant he may be of city government in general, no matter how oblivious he may be of his countless other contacts with his government, is made constantly, vividly (and usually comfortably) aware of its presence and functioning by the familiar sight of its uniformed police officers and firemen. To the average citizen these officials are the principal visible embodiment of the power and majesty of his city. Our discussion of the administrative boards of the city may, therefore, well begin with the work of the Board of Safety, which has for its principal duty the administration of the police and fire departments.

Composition—The Board of Safety is composed of three members appointed by the Mayor to "serve during good behavior."¹ Practically, this means that they serve at the pleasure of the Mayor, for they may be removed by him summarily without a hearing.² The law specifies that persons named to this board "Shall be of good moral character and be able to speak and write the English language."³ The Board must be bi-partisan in character since not more than two of the members may belong to the same political party.⁴ The purpose of this requirement of minority representation on the board may be partially nullified by the additional provision that any two members of the board shall constitute a quorum for the transaction of business.⁵ Nevertheless, under the present system of party government such a provision is probably essential. For, much of the time when party spirit is high, little could be accomplished by the board if action were contingent upon the previous approval or consent of the minority member.

Since the board is required to record all its proceedings, it is authorized to appoint a clerk, who may be a non-member of the board in cities of the first and second classes, to keep the records. His salary is fixed by ordinance subject to limitations fixed by statute.

The Board elects one of its members to serve as chairman.

¹Burns Statutes Annotated, 48-6101. (Acts 1905, P. 219; 1907; P. 168).

²Klink V. State ex. rel. Budd. 207 Ind. 628, 194 N. E. 352 (See Art. 15 Sec. 2 Indiana Constitution).

³Burns, 48-6101. ⁴ibid. ⁵Burns Statutes Annotated, 48-6102.

Chapter III

Functions of the Board of Safety—The primary function of this board, as has been said, is to administer the police and fire departments. It is charged with the "care, management, supervision, and exclusive control of all matters relating to or connected with the fire and police forces, the fire alarm, telegraph, fire escapes, the inspection of buildings and boilers, market places, and the food sold therein, and pounds and prisons."¹ The Board appoints the Chief of Police and the Fire Chief, who have "exclusive direction and control" of the police and fire department personnel "subject to the rules, regulations, and orders of the department of Public Safety."

It also appoints other officers, members, and employees of the fire and police forces, a market-master, station-house keeper and "other officials that may be found necessary for such departments."

There are many practical (and political) limitations upon the appointive power of the Board. But there are few legal limitations aside from those the Board imposes upon itself by rules and regulations formally adopted. Aside from these the only important limitation is the legal requirement that the fire and police forces must be, as nearly as possible, equally divided politically.² This provision is rooted in partisan jealousy. But it is difficult to discover any vital connection between it and an efficient, non-political fire or police department, which should be the objective of the law.

The power of removal possessed by the Board is more limited by statute than is its power of appointment. It may remove any employee from office for any cause other than politics after serving written notice upon him, notifying him of the time and place of a hearing, and after an opportunity for a hearing is given "if demanded." In case of suspension or dismissal orders, the employee has the right to appeal to the superior or circuit court of his county.³ Detectives may be dismissed at any time.⁴ Lesser penalties may be visited upon employees of the police and fire departments by the Board without the privilege of appeal.

Appointments, promotions, and demotions may be made on the basis of personal or political favoritism, or any other basis satisfactory to the local Board. Capricious or arbitrary actions by the Board may, however, so outrage local opinion as to bring about reprisals against the existing administration or party in power at the next election.

¹Burns Statutes Annotated 48-6101.

²Burns Annotated 48-6102 (Acts 1905).

³id, 48-6105.

⁴Burns Statutes Annotated, 48-6101.

[The main body of the page contains several paragraphs of text that are extremely faded and illegible. The text appears to be a formal document or report, possibly discussing a project or a set of findings. The structure includes a header, several paragraphs of body text, and a concluding section at the bottom.]

[The bottom section of the page contains a few lines of text, which are also faded. It appears to be a signature block or a set of concluding remarks.]

t
h
i

M
t
n
t
n
b
h
in
at
b
to
th
w
m

ch
co

et
ie
ele
oc
m
del
few
ex
per
the
The
and
tra
gan
son
or
pres

ign
not
apa

Chapter III

Importance of the Board of Safety—From this cursory outline of the legal constitution, powers, and duties of the Board of Safety it will be evident that this board is one of the most important of the administrative boards of any city.

The members of this board should, therefore, be appointed by the Mayor only after the most careful study of the merits and attitudes of the various applicants for the position. Certainly something more than mere party allegiance, party enthusiasm, party industry, or party contributions ought to be taken into consideration when such appointments are made. Appointments to the board and by the board should be scrutinized carefully by the local citizenry; and local opinion should hold the appointive power rigidly responsible for any inefficiency, inertia, or favoritism on the part of the department. These principles apply of course in the selection and direction of all administrative boards and officials. But they are of especial importance with respect to the Board of Safety because of the vital character of its work—the supervision and direction of a small army of men and women whose primary function is to protect directly the lives, property, and morals of the people of the community.

If persons of the wrong calibre or connections are placed in charge of a police force, the most pernicious evils will exist in the community.

In some cities powerful gambling, liquor, vice, or other “racketeering” individuals or syndicates frequently wield sufficient political power to name the members of the Board of Safety following elections which they dominate or claim to dominate. Where this occurs, government by law tends to disappear. The tone of the community and the morality of all governmental service are likely to deteriorate rapidly—and possibly unnoticed except by an observant few. For if honest, intelligent, and alert policemen are restrained or excused by their superiors from enforcing the laws against certain persons who openly violate them, their consciences will rebel against the apparent injustice of enforcing them against others, less favored. They lose their respect for their superiors first, for themselves next, and finally their respect for the law. If a favored few can have their traffic tickets “fixed,” or display openly and with impunity illegal gaming devices, or operate vice and liquor resorts illegally, they pay somebody for these privileges either directly or indirectly in one form or another. If they do not pay in money, then they pay with the expressed or implied promise of votes.

The habit of ignoring some violations leads quickly to the habit of ignoring most violations. In cases such as these the police may or may not be to blame; usually they are merely helpless. If the citizens are apathetic or indulgent there is no remedy, and the community acquires



Chapter III

an unenviable reputation which is damaging to every citizen and to property values.

Because of the frequency with which such conditions as these are found to exist in American cities, there is an increasing sentiment among citizens in favor of transferring control of local police forces from local boards to state officials in the hope that this will result in more efficient and less partial enforcement of the laws. But this may only serve to set up new or magnify old evils. If the people of any community cannot or will not exert themselves in a united way to control locally selected officials, they are not likely to be able to control the administration of local officials when the administration is centered much farther away. As was said, the remedy lies in another direction. The remedy is an honest, alert citizenry which checks appointments to the board and to the department closely, which watches jealously the daily application of the law and the disposition of cases in the city court; which insists upon a non-political police and fire force selected, retained, and promoted strictly on a merit basis; which will pay for an adequate force, modernly equipped, working reasonable hours for a fair wage supplemented by a satisfactory retirement or pension plan, etc.

Present Size of the Department—At present the Department of Safety employs approximately two hundred ninety-eight people. Of these employees one hundred twenty-eight are policemen and one hundred fifty-three are firemen.

The annual cost of the department is more than six hundred thousand dollars.

The Weighmaster—The weighmaster is in charge of the city scales. He is appointed by the State Commissioner of Weights and Measures upon request by the City. His rights, duties, and functions are prescribed by the State Commissioner. He is under the general supervision of the Board of Safety.¹

The Inspector of Weights and Measures—Although the city inspector of weights and measures is appointed by the local Board of Safety and is in some measure responsible to it, he is not, strictly speaking, a City official. He is rather a state official. For he is a deputy of the State Commissioner of Weights and Measures without whose previous approval he can neither be appointed nor discharged by the Board of Safety.² The State Commissioner may, himself, remove the local inspector for the good of the service after five days notice followed by an opportunity for a hearing. The discharged inspector may then appeal to the local circuit or superior court.

The term is indefinite. Like policemen and firemen, the inspector

¹Burns Statutes Annotated 69-114. Acts 1925. P. 247.

²Burns Statutes Annotated 69-105.

Chapter III

serves so long as he behaves well. Appointments are made (since 1925) upon a merit basis, only those persons who have passed an examination given by the State Commissioner being eligible to appointment.¹

The function of the local inspector of weights and measures is an important one. An active, competent, and honest inspector will save the consumers of the community many times his salary each year by preventing short weights and short measures on the part of the sellers. He changes the ancient slogan of trade from "let the buyer beware" to "let the seller beware."

The inspector and his deputies examine, approve and seal, or disapprove and condemn all scales, weights, and measures used in the transaction of business within the city and county. They check all measuring devices from taxicab meters and gasoline pumps to the butcher's and grocer's scales to see that the consumer receives what he pays for.² They may stop without previous arrangement coal, ice, or delivery trucks and order them to weigh their loads on tested scales, checking the actual weight against the weigh bills of the drivers.

They must, by law, check all measures used locally at least once a year.

The inspector and his deputies are made special policemen and may make arrests, and seize substandard equipment for evidence, without formal warrant. They may enter any place of business without formal warrants and check measuring devices used therein.

THE BOARD OF PUBLIC WORKS—Another important administrative board of the city is the Board of Public Works.

Composition and Organizations—The Board of Public Works consists of three members, not more than two of whom may belong to the same political party. The members are, as has been said elsewhere, appointed by the Mayor, and are removable by him at any time.³ It is a full-time salaried board, the members each receiving \$2,400 per year plus \$500 from each city utility at present.

¹Burns Statutes Annotated 69-107.

²Burns Statutes Annotated 69-106. Acts 1925, p. 247.

³Burns Statutes Annotated 48-1901.



Chapter III

The regular meetings of the board, which are held in the rooms provided for it in the City Hall at 10 o'clock (a. m.) on Tuesdays and at 7:30 o'clock (p. m.) on Thursdays of each week,¹ are presided over by the chairman, who is elected to that position by the other members of the board. The records are kept by a paid, full-time secretary appointed by the Mayor or by the board at his suggestion.²

In addition to the secretary, the board is assisted by the city engineer, a bookkeeper, a minute clerk, and a record clerk.

Powers and Duties—³The Board of Works administers millions of dollars' worth of city property and employs hundreds of people. Its bill for the services it renders is larger than that of any other single department save the department of safety. The services it performs are vital to the public health and comfort.

It directs the work of the city engineer's office, the street and sewer department, the asphalt repair plant, the building department, the water works, and the city light and power plant.

It is empowered by law to condemn, rent, or purchase any real estate or personal property needed by the city for any public use, with few exceptions. This may be done at the discretion of the board without specific authorization by ordinance where the sum expended for rent, purchase, or condemnation is less than \$2,000. It has custody of all city property when custody is not specifically placed elsewhere by law. It may design and construct public buildings and improvements for the city, including the erection of sewage disposal plants, fire systems, pounds, etc. It must approve the platting of all streets and alleys in any addition to, or subdivision of, the city, or within four miles of the corporate limits before such plots can be officially recorded in the county recorder's office.

It is in charge of all street and alley construction and repair, except that the State Highway Commission now has exclusive control of the maintenance and repair of streets which form a part of the State

¹City Government Directory.

²Burns Statutes Annotated 48-1901; Acts 1933.

³Burns Statutes Annotated 48-1901.



Chapter III

Highway System;¹ construction and maintenance of sewers and drains within the city or within four miles of the city limits; the sprinkling, lighting, and cleaning of the streets; the construction of bridges, etc. It may, upon specific authorization by ordinance followed by a popular referendum, purchase property within or without the limits of the city and construct and operate water works; gas works; light plants; telephone, heating and power plants; steam plants, etc., for purpose of supplying service to the city.

It may grant franchises to public utilities to use the streets and alleys. But the exclusive right to use the streets of the city for any purpose cannot be granted to any persons,² and franchises must be approved by ordinance to become effective. It is in charge of garbage removal. The law enumerates more than twenty specific powers and functions of the Board of Works climaxed by a blanket grant which directs the "discharge of all other duties of any executive character not falling within the sphere of some other executive by ordinance."

The Board of Public Works of Fort Wayne has charge of more than twelve millions of dollars' worth of property, which includes a water filtration plant which cost \$2,500,000, a city light plant valued at \$4,000,000, a sewage disposal system now under construction, which will cost \$5,000,000, and other city properties, including the City Hall.

Character and Qualifications—Much of the work directed by this board is of a technical character requiring a great deal of specialized knowledge for its proper performance. Obviously the men who actually operate our water filtration plant, our light and power plant, etc., must be competent engineers in more or less specialized fields, if the services they render are to be efficiently and economically performed. The same is true of our building inspectors (plumbing, electrical, etc.), the superintendent of the asphalt repair plant, etc. None of these should therefore be appointed or promoted upon a political basis, but rather upon a merit basis alone.

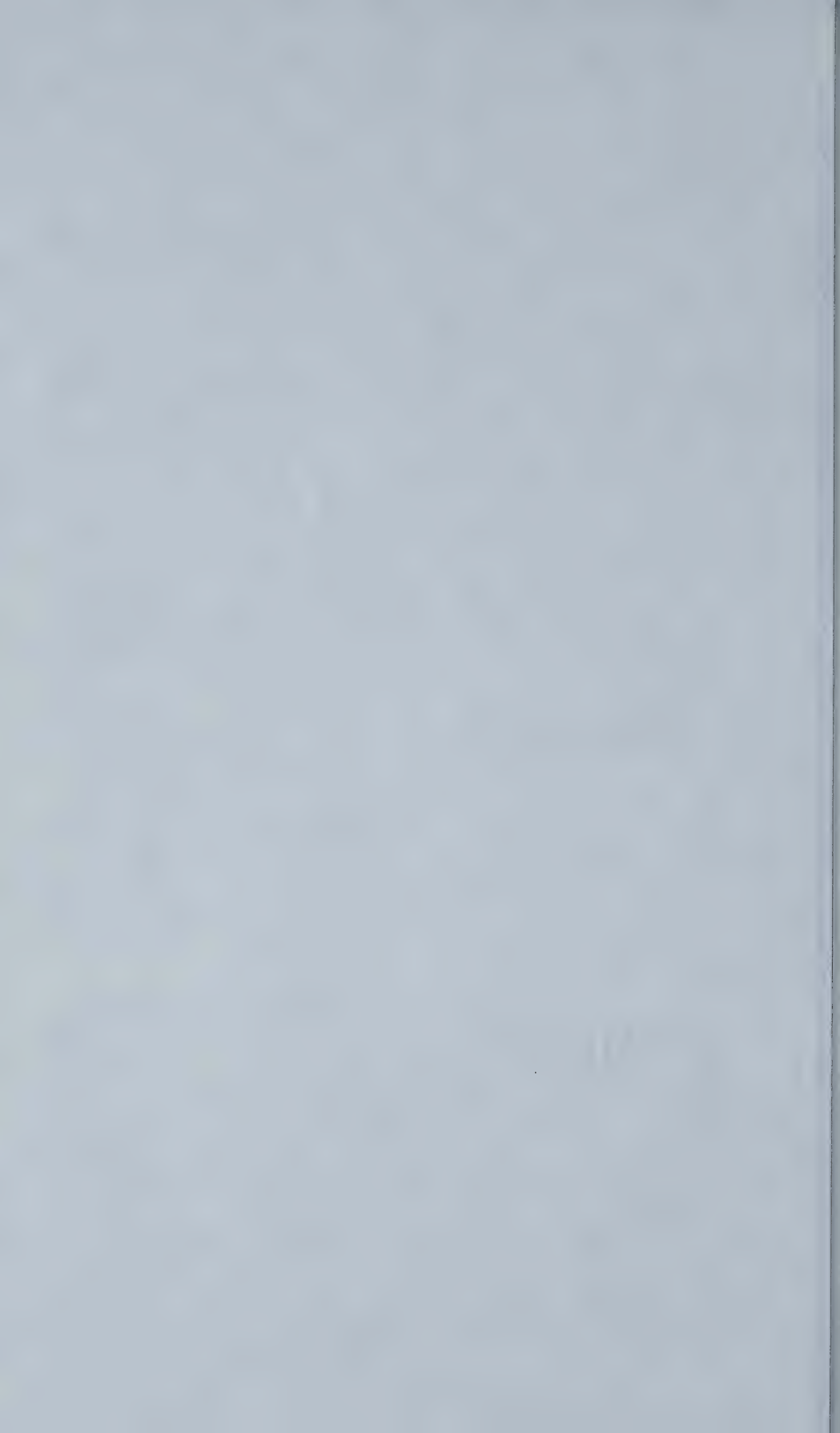
The members of the Board themselves will be in a stronger position if they are at least conversant with engineering problems. For they will then be better able to pass intelligently upon the terms of the contracts into which they enter. They will be more likely to know whether the public is getting full value for its money.

Many people are inclined to think that honesty and solid virtue are satisfactory substitutes for knowledge of the work to be done. They are wrong. Ignorance may at times be nearly as criminal in its results as is dishonesty.

But while honesty is not a substitute for knowledge it ought to

¹Gardner V. Covington, 86 app. 229 156 N. E. 830.

²Citizen's Gas & Min. Co. V. Elwood 114 Ind. 332.



Chapter III

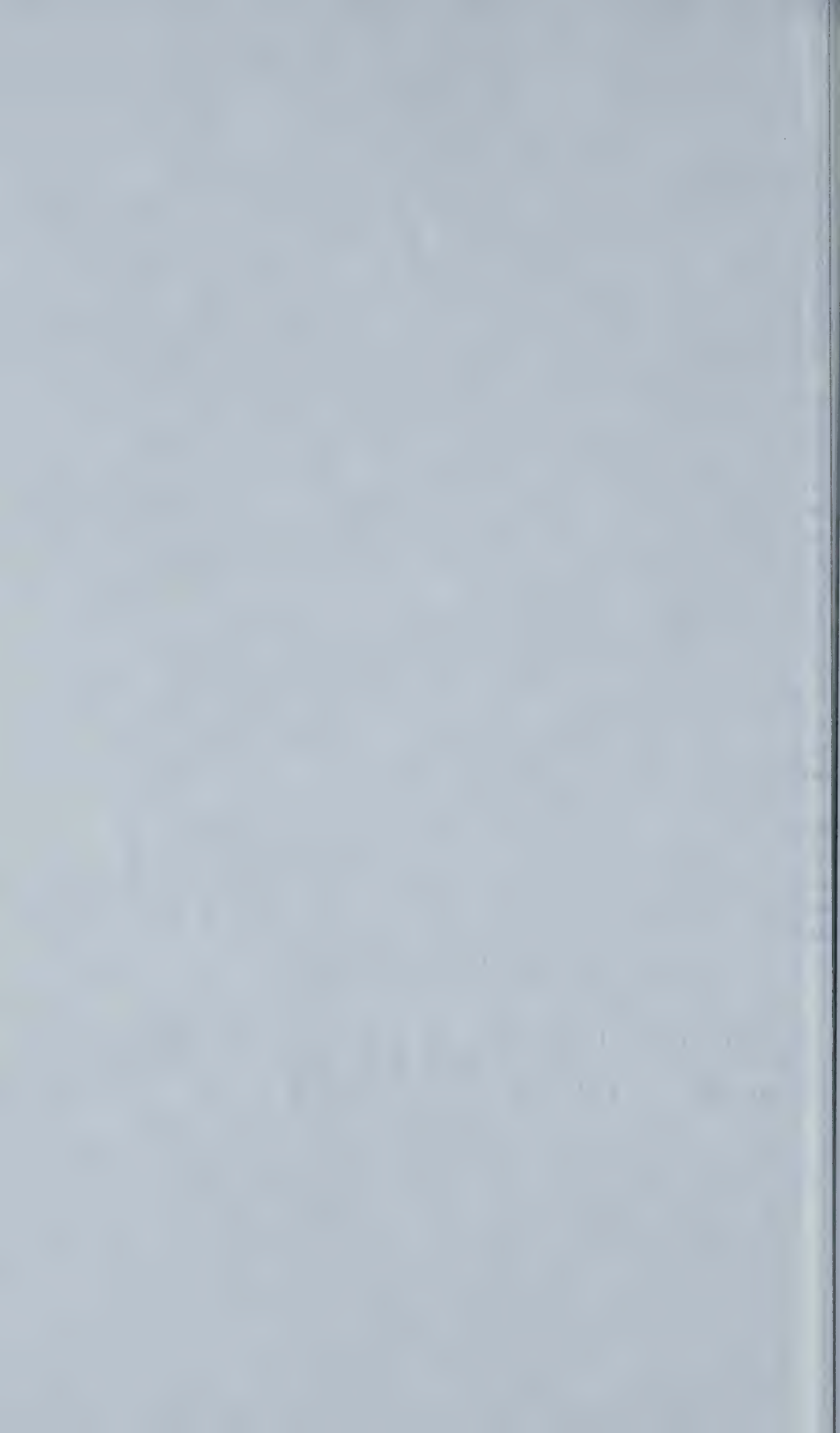
be a primary consideration in appointments of this sort. For considerable strength of character is required on the part of Board members to resist successfully the pressure to which they are subjected by those individuals or corporations which seek to profit from public contracts, franchises, or sales. This pressure may be exerted in the form of threats of political reprisal and intimidation, or in the form of attempted bribery, or in other forms familiar to lobbyists. Courage and honesty are then required on the part of the Board members.

Not all the pressure to which the Board of Works (or any other administrative board for that matter) is subjected is exerted by profiteers, or selfish contractors. Some of it is the result of public ignorance. For example, the law specifies that when streets, alleys, sewers, etc., are extended to subdivisions or sections of the city, they must be paid for by assessments levied against the property benefited; but that such improvements cannot be made where the necessary assessment would exceed fifty percent of the private property valuation. Yet occasionally some self-appointed leader of an impoverished community will organize the people, or a community association will be formed, to lobby for the extension of streets and sewers to the community, in the belief that such improvements are paid for from the general funds of the city provided by city-wide taxation. The pressure to which board members are then subjected is none the less severe because it is based upon an erroneous assumption on the part of the lobbyists.¹

Letting of Contracts—Any work undertaken by the Board which may be paid for out of the general fund or treasury of the city may be performed by the Board's own employees; or the Board may let contracts for the work as it may choose. But when such work is to be wholly or partly paid for by special assessments on the property benefited, it must be done under contract in most instances.²

¹It may be of interest to note that in the paving of alleys, etc., one person from any section of the city may petition the Board for the improvement. The petition is made public. Resident property owners not desiring the improvement may sign a remonstrance and file it with the board. If more than fifty percent of the resident property owners sign the remonstrance the Board disallows the improvement. If, therefore, only three persons residing along the alley to be improved own their own property two of them may prevent the improvement. Property owners must meet the following qualifications: (1) They must actually live in the affected property; (2) the property must border on the improvement; (3) the deed to the property must be in their names.

²Burns Statutes Annotated 48-1903



Chapter III

When contracts are to be let the Board has drawings, specifications, etc., prepared by the city engineer and filed in its office. It then advertises for bids for two successive weeks in a local newspaper of general circulation. The bids are sealed and are receivable not earlier than ten days after the first publication of the request for bids. Bidders must file affidavits stating that they have not combined or conspired with one another in making their bids. If collusion is discovered later the contract may be revoked and re-let.¹

At a specified time the Board opens the bids and considers them. The contract is supposed to be let to the lowest and best bidder. This provision allows the Board considerable discretion in the awarding of contracts.

Consolidation of Administrative Boards—The civil cities classification act of 1933, previously alluded to, provided for the consolidation of the Board of Public Works with the Board of Safety in cities of the second class, to form a "Board of Public Works and Safety." This board was to perform the functions previously performed by the two separate boards. It was to be *ex officio* in character, consisting of the city engineer, the city controller, and the city attorney, who were to serve without additional pay.²

But the law contained a "joker" exempting second class cities which owned and operated a municipal water works and electric light plant from complying with this provision.

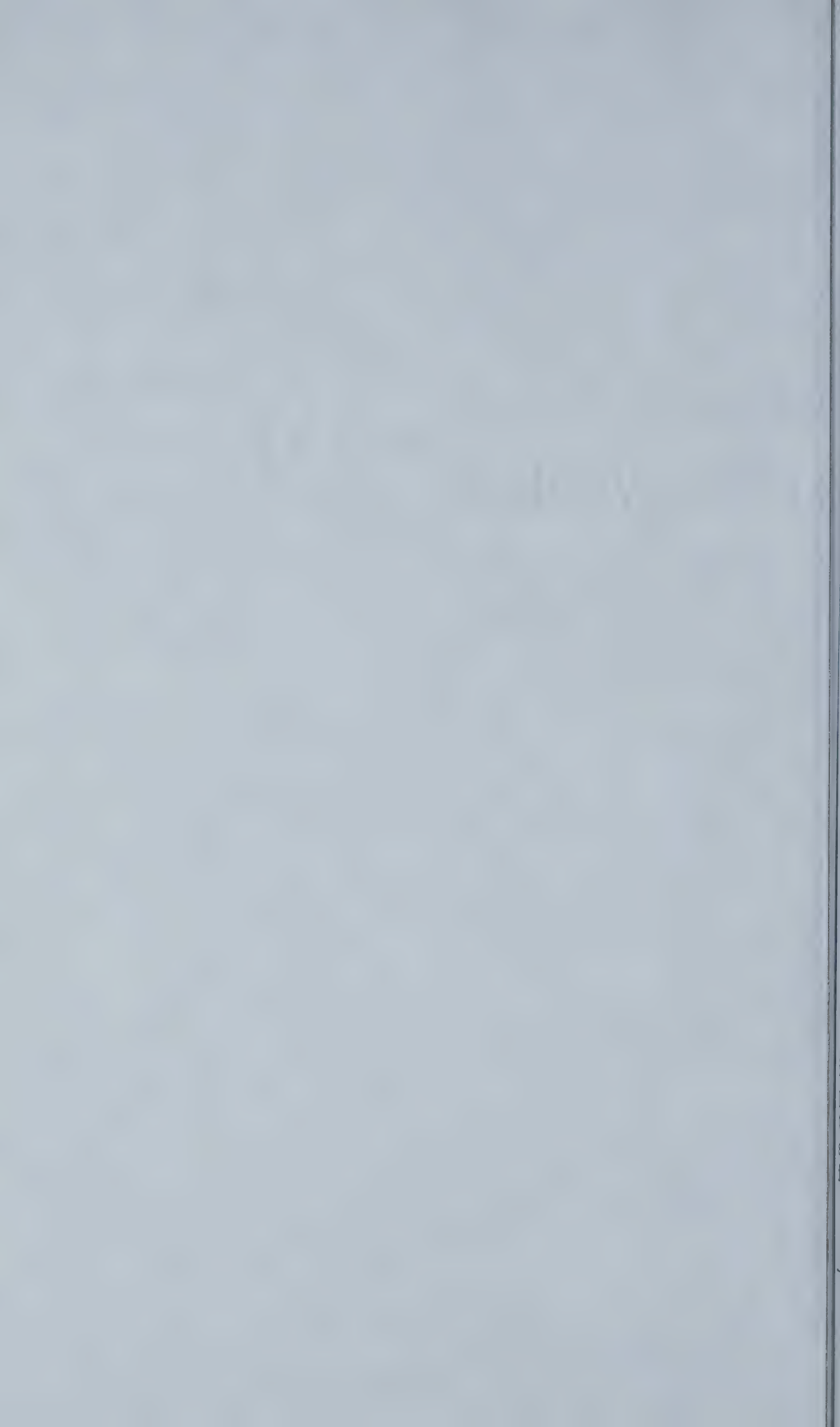
Inasmuch as Fort Wayne owns and operates these two utilities, it was not forced to comply with this provision of the Act, and still maintains separate boards of Public Works and Safety.

Whether a consolidated board would be an improvement is a debatable question. On the surface, at least, it would seem to possess distinct advantages. It should result in a greater degree of coordination of activity resulting in increased efficiency and economy in city government.

Since the problems of city government are largely matters of law, engineering and finance, it would seem advisable to have men who are trained in each of these fields in charge of both departments. In the matter of letting contracts for public improvements, for example, the city engineer should be competent to pass upon the engineering phases to insure the public it will get the greatest possible return for money expended; the city attorney should and does pass upon the legality of the contracts, bond issues, etc., to protect the city against future economic difficulties; and the city controller as the chief financial officer.

¹Burns Statutes Annotated 48-1904

²Acts of 1933, P. 1044, Section 5



Chapter III

ial or head bookkeeper of the city should, and does, pass upon the economic or financial phases of the proposed undertaking. Why, therefore, should not these officials constitute the Board?

The principal argument against consolidation is that the work of each board is so important, and requires so great an expenditure of time and effort, that separate boards are needed. This does not seem to be a convincing argument, inasmuch as the primary objective is coordination rather than abolition of service. Of course neither board wishes to surrender its separate identity.

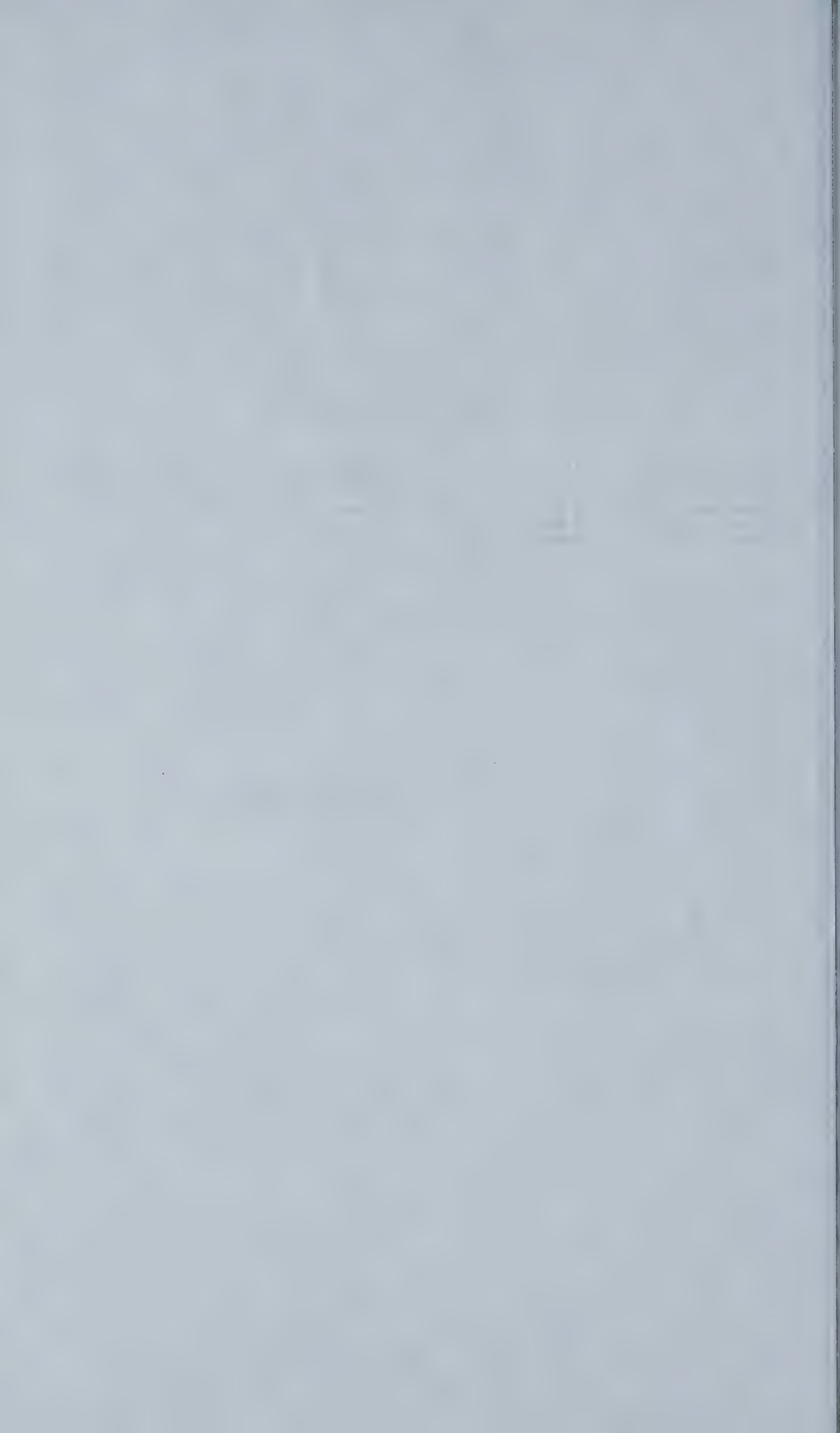
The Building Commissioner—One of the most important departments of government in a growing city is the building department. This department, as has been noted, is under the direction and control of the Board of Public Works. It is presided over by the Building Commissioner, who is appointed by, and responsible to, the Board.

It is the duty of this department to apply or enforce the voluminous building code of the city, and the slightly less voluminous zoning ordinance. These ordinances regulate all building construction in Fort Wayne. The code sets up standards of construction, of heating, plumbing, lighting, etc., which must be observed by all builders; and the zoning ordinance determines the type, bulk, area, and height of buildings which may be erected in any particular location or zone.

Any person wishing to erect or remodel any sort of building within the city must first furnish the building commissioner with a set of plans and specifications of the project, and secure his approval of them before proceeding to build.¹ If the plans are in accord with the building code and the zoning ordinance, permission to proceed will be granted. If they are not, they must be revised, or permission will be denied. If the denial is based upon the commissioner's interpretation of the zoning ordinance and involves some minor matter the applicant may appeal to the Board of Zoning Appeals. If the denial is based upon the fact that the plans violate the building code there is no appeal except to the courts.

After permission to build or remodel has been granted, the building department makes careful inspections during the progress of the project to insure observance of the plans filed with it, and to guarantee the safety and healthfulness of the resulting structure. The commissioner is assisted by a plumbing inspector, an electrical inspector, a furnace and sheet metal inspector, and a clerk.

¹In actual practice of course the contractor or builder usually takes out the building permit for the owner. Both owner and contractor may be held liable for violations of the code.



Chapter III

In addition to the work outlined, this department also licenses all plumbers operating within the city.

The work of this department is quite important. A competent, energetic, and courageous building commissioner, if unhampered in the application of the law, is a guarantee of a city more beautiful, more healthful, and safer in every respect.

When this department is busiest it costs the city least. That is to say, when building activity is high the fees collected may, and do, exceed the cost of maintaining the department.

The Asphalt Plant and Testing Laboratory—The city maintains its own asphalt plant and testing laboratory near the Van Buren Street Bridge on Sherman Street. The asphalt necessary for the construction and maintenance of streets is manufactured here from the crude materials. The plant is operated on an average of two hundred twenty days per year. It employs about thirteen men. Nearly three million square yards of asphalt pavement or streets are maintained in the city.¹

The testing laboratory is equipped in accordance with the recommendations of the United States Bureau of Standards. Here asphalts, portland cement, concrete, brick, sand, gravel, limestone, and mortars are tested and analyzed.

This plant and laboratory are under the general direction and control of the Board of Public Works.

The Street and Sewer Department—This department is also under the supervision and direction of the Board of Public Works. It has charge of the maintenance of the sidewalks, bridges, sewers, and streets of the city other than the asphalt streets which, as just noted, are cared for by the asphalt repair plant. The department consists of the street commissioner and assistant street commissioner, an inspector, the superintendent of the sewer department, and a clerk.

THE BOARD OF PARK COMMISSIONERS—Increasing leisure and increasing emphasis upon health in recent years have combined to bring about a more general participation in recreational activities and an increased demand for recreational facilities. This demand has added considerably to the importance and to the burdens of the Board of Park Commissioners, since its primary duties are to provide and maintain recreational facilities for the public, and to beautify the city.

Composition²—This board is composed of four members appointed

¹Interview with the Superintendent of the Asphalt Plant

²Burns Statutes Annotated 48-5602-3 (Acts 1923)



Chapter III

by the Mayor and removable by him at any time, provided he files his reasons for such removal with the city clerk in writing. The board is bipartisan in character, the law requiring that the membership be equally divided between the major political parties. The members must be resident freeholders of the city. They serve without compensation.

The terms of the members are staggered so that at no time is the Board composed entirely of inexperienced members.

Their actual expenses are paid up to a maximum of three hundred dollars—an average of seventy-five dollars per year per member.

It is generally assumed that under this arrangement only public spirited citizens genuinely interested in making a contribution to civic betterment will seek or accept appointment to this board. This at least has been the case in Fort Wayne. It does not follow however that this is the inevitable, or even the most likely, result of the system. For it is frequently alleged that in some cities similar boards denied adequate (or any) regular pay for their services still find ways of benefiting materially from their positions. Since they handle large sums of money, buy and sell real estate and other property, spend large amounts for supplies, hire large numbers of employees, let contracts representing large sums, there are abundant opportunities for what politicians of the baser sort often refer to as "honest graft." The public should therefore interest itself in personnel and the functioning of this board (as well as others), not merely in order to prevent graft but to lend its support at strategic times for the accomplishment of desirable civic ends.

Organization and Meetings—The Board members elect their own president and other officers.¹ They employ a considerable staff of skilled and unskilled workmen to carry on the actual work of the department. They may employ a secretary, park superintendent, tree surgeons, landscape gardeners, engineers, attorneys, etc., regularly or whenever their services are required. The local Board employs a city forester but no tree surgeons, or landscape gardeners as such.

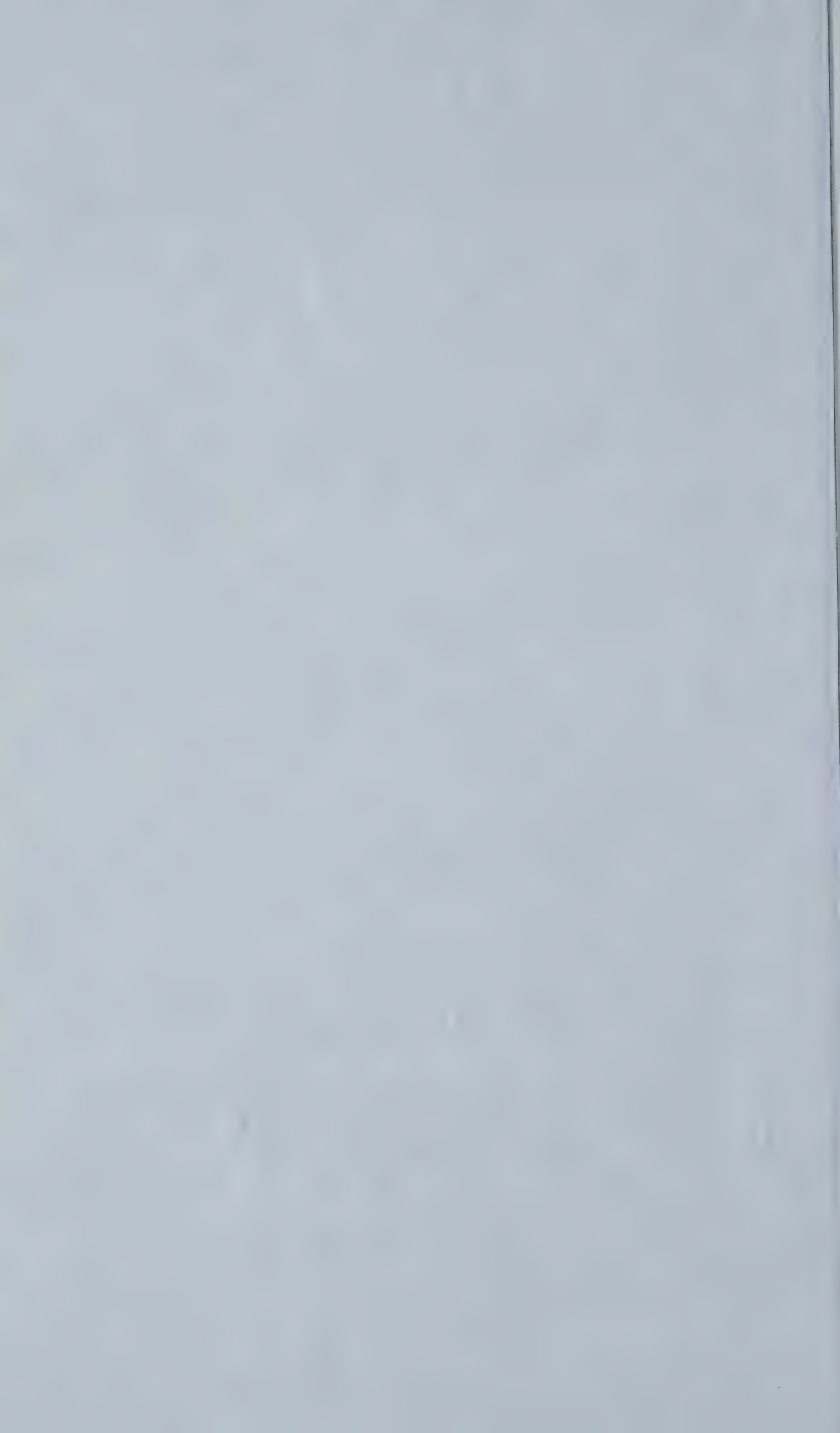
The Board fixes its own time of meetings. It meets regularly every Thursday afternoon in the City Hall.² Special meetings may be called by the president at will or at the request of the members.

Powers and Duties—The Board of Park Commissioners in all second class cities has complete and exclusive charge of the management and control of all parks within the city or within five miles of its corporate limits,³ subject only to the limitations of state law.

¹Burns Statutes Annotated 48-5604

²Information from Acting Secretary of the Board and Park Superintendent.

³Burns Statutes Annotated 48-5607



Chapter III

The term "parks" is very broadly defined by the law. Except for local school playgrounds and recreational facilities the term includes public parks and parkways, public boulevards, bridlepaths, playgrounds, playfields, swimming pools, bath houses, bathing beaches, athletic fields, community centers, tourists' camping grounds, public squares, centers, gardens, natatoriums, zoological gardens, and "other similar property and functions."¹

The Board is empowered to buy, construct, maintain, repair, and make rules for the use of all such public facilities. It possesses the power of eminent domain to enable it to protect the parks it establishes. It may, by condemnation proceedings, regulate and fix building lines on properties within five hundred feet of any park. It may vacate streets and alleys for park purposes. It may control the streets and thoroughfares entering the park so far as necessary to achieve its legitimate objectives. Previous consent of the Park Board is necessary for the City Council or other authority to grant any franchise permitting the construction of railway, telephone, or pipe lines within or through a park. The Board may "order and require" any public service corporation to install water or gas mains or light conduits wherever they are "reasonably necessary." It may lease property under its control to private individuals or corporations. If the lease is granted for more than one year, it must be made to the "highest and best" bidder after public notice has been given. It may require the Board of Safety to assign policemen to the parks for enforcement of the rules and regulations. Perhaps all the powers of the Board can be summed up generally (and inaccurately) by saying that it is given all the power that is necessary for the creation, maintenance, and control of an adequate system of public parks. The exercise of these powers, however, is dependent upon the amount of money available to the Park Board. Where this is inadequate it goes without saying that the relatively vast administrative powers conferred upon the Board by law mean little.

Financing—The Park Board may derive funds from various sources, such as the leasing of park concessions, donations or gifts from private individuals, etc. But the major portion of its funds is derived from taxation. A special tax levy is included in the general taxing ordinance for park purposes.

The law provides that the common council shall levy an annual tax for park purposes of not to exceed ten cents on each one hundred dollars' worth of taxable property in the city. The levy in Fort Wayne has averaged five cents during the past five years. The Common Council may appropriate additional moneys out of the city general fund; or sell bonds and turn the money over to the Park Board. But from whatever source the funds may come, the Board is given "full, com-

¹Burns Statutes Annotated 48-5607



Chapter III

plete and exclusive authority" over their expenditure. And whatever funds are in the treasury of the Board at the end of the fiscal year remain there for use the next year.

The Board cannot, however, legally contract debts beyond the abilities of its income. All warrants for expenditures must be drawn by the city controller on vouchers of the Board signed by the president or the vice-president and secretary.

Fort Wayne's Park System—The local Board of Park Commissioners has created, and is endeavoring to maintain, one of the best park systems in the middle west for cities of this size. It administers about thirty-seven different parks, ranging in size from one-half acre to more than two hundred fifty acres. The total park acreage is approximately 950.¹ Nearly one-half of this acreage was donated by public-spirited citizens whose names have been perpetuated in the names of the parks. The estimated value of the thirty-four parks of the city in 1933 was \$1,500,000. It has increased since then.

Not all the parks are recreational in the popular sense. Some of the smaller ones are largely in the nature of memorials or historic sites (Old Fort Park, for example). But each park has its own particular bit of interest or beauty or service to render. Foster Park (our largest park), furnishes facilities for various forms of recreation—tennis courts, a golf course, archery range, bridle and footpaths, and picnic grounds. Lakeside, possibly Fort Wayne's most beautiful park, is noted for its rose gardens, where more than twenty-thousand roses, of more than four hundred varieties are grown annually; Memorial Park for its grotto, a copy of the famous Blue Grotto on the Island of Capri in the Bay of Naples, the realization of a dream which the present superintendent of parks² entertained from youth after seeing the original; Franke Park for its lagoons, its aviary, and its nature study trails; West Swinney Park for its Japanese Garden, etc.

Each year thousands of citizens who would not otherwise have any opportunity to enjoy the fresh air and sunshine, the exercise, and the beauty, which more fortunate people may purchase, visit these parks which belong to them, and are benefited thereby. Literally thousands play baseball, or tennis, or horseshoe or swim, or ride or otherwise use the equipment provided for them by the Park Board at public expense.

Finally, the Park Board does many other things sometimes overlooked or unappreciated by the people. For example, some years ago it took over the care of the more than sixty thousand trees growing between the sidewalks and curbs of the city. It raises thousands of plants and flower seeds which are distributed free to school

¹Oral report, Superintendent of Parks

²Mr. Adolf Jaenicke, Supt. of Parks for twenty-two years



Chapter III

children, and conducts an annual flower show to encourage interest in city beautification.

This sketchy survey of the organization and functions of the Board of Park Commissioners will serve to indicate roughly its importance, and the varied nature of its work, which is usually unappreciated.

THE BOARD OF PUBLIC HEALTH—An act of the General Assembly of 1935 provided for the appointment of Boards of Health in every city of the State. The Boards of Health in all second class cities (including Fort Wayne) were to be bipartisan in character. Not more than two of the four members¹ of the board might belong to the same political party.

Members of this board are appointed by the Mayor for terms of four years, but may be removed from office by him prior to the expiration of their terms for cause stated in writing after a hearing has been given them.² Their terms rotate, i.e., the term of one member expires each year, so that at all times the majority of the board will be composed of experienced members.

Salaries of the board members are fixed by ordinance, with the exception of the secretary who may or may not be a member of the Board accordingly as the Board itself may choose.³ His salary is fixed by the law of 1935, previously mentioned, at two cents per capita,⁴ based on the population of the city.

The secretary to the Board bears the title of City Health Officer. He is appointed by the local Board for a term of four years, subject to the approval of the State Board of Health, which may veto his nomination, or remove him from office after appointment, if it so desires. He may also be removed by the local Board.⁴

The only qualifications for membership on the Board specified in the law is that not less than three of the members shall be regularly licensed physicians, "well informed in hygiene and sanitary science."⁵ The City Health officer must be "legally qualified to practice medicine, suitably trained in sanitary science," and possess "qualifications.... satisfactory to the State Board of Health."⁶

¹Prior to January 1, 1939, the board consisted of three members. On that date the provisions of the act of 1935 became effective.

²Burns Statutes Annotated, 48-7401

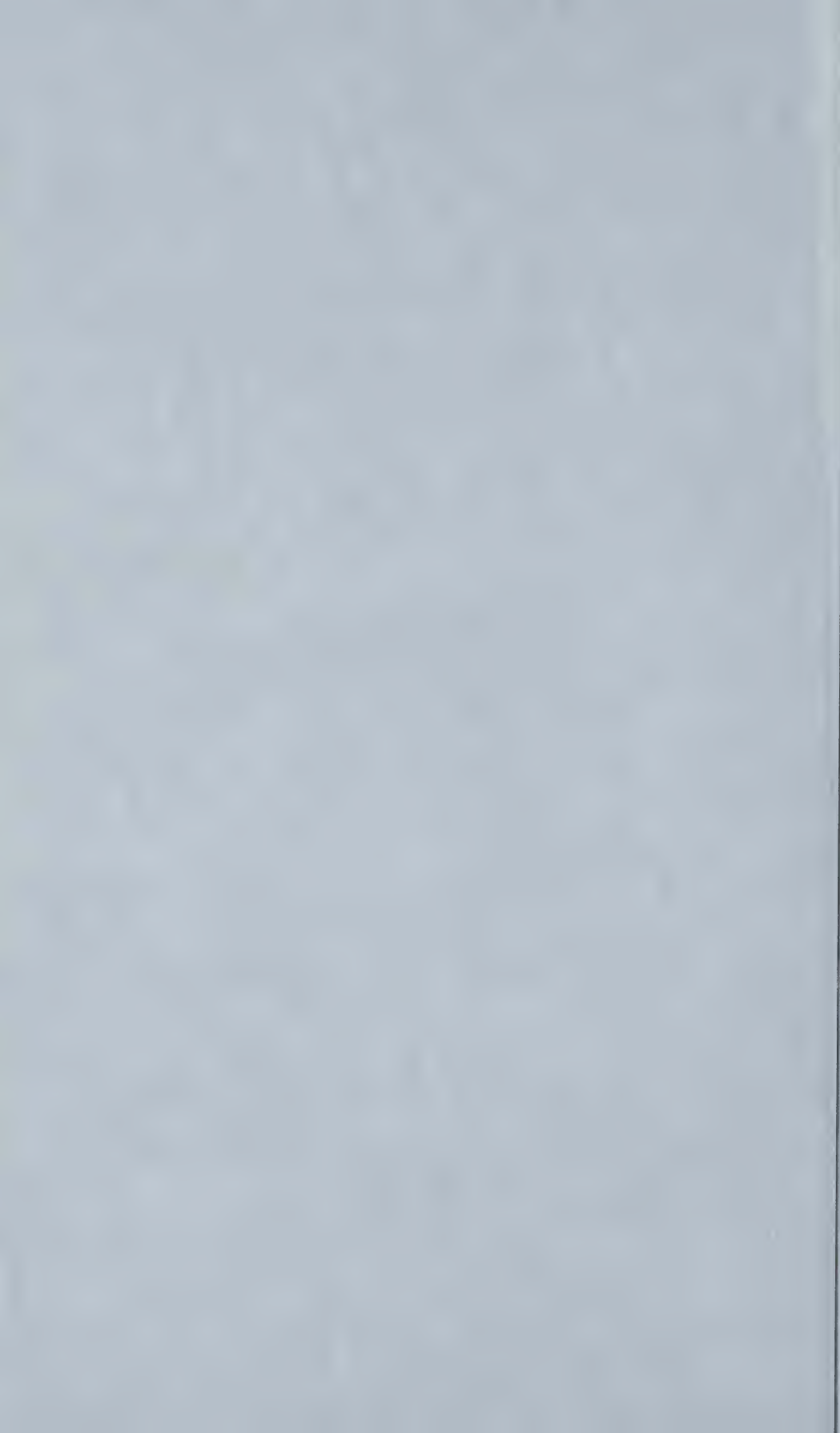
³The City Health Office of Fort Wayne is, at present, a member of the Board

⁴Acts of 1935, ch. 217, Sec. 4, Page 1029

⁵id, Sec. 2

⁶Acts of 1935, ch. 217, pages 1029, Sec. 4

*But in no case may it be less than \$100.



Chapter III

As a matter of actual practice all Board Members are practising physicians in good standing. Of the twenty-eight employees of the Board listed in the 1939 government directory twelve are licensed physicians.

The Board of Health maintains permanent offices in the City Hall where the health records are kept. Meetings are held upon call.

Powers and Duties—The Board of Health is vested with considerable power over local health and sanitation by the law. The secretary, as the executive officer of the Board, directs the work of the staff of employees and field men, makes recommendations to the Board, and carries out the policies it formulates.

The Board has charge of all matters relating to the public health and enforcement of the laws relating thereto. It is charged by law with the preparation of ordinances for the protection of the public health, the registration of births, marriages, and deaths, and the collection of other vital statistics. It may provide for the maintenance of an ambulance service if necessary, and for the management of the city dispensary and city hospital where such exist.³

In case of epidemics, it has practically dictatorial powers. It establishes quarantines and orders vaccinations. It may close the schools and forbid public meetings. It may take whatever steps may be necessary to control disease, even to the point of ordering the destruction of infected properties.

It provides for the testing of the milk and water supplies¹ of the city. It supervises the inspection of meat markets, slaughterhouses, dairies, markets, restaurants, and other places where food is processed and sold. It maintains a clinic for the treatment of venereal diseases.

The carrying out of these duties necessitates the employment of an office staff and several field workers. The Board, therefore, nominates, for appointment by the Board of Safety,² numerous special sanitary officers who must, according to the law, be "skilled and competent persons," to perform the actual duties of inspection, investigation, keeping the records, etc.

The local Board employs a dairy and meat inspector and deputy, and seven other "sanitary officers"³ or inspectors. It employs three nurses, including a public health nurse and a nurse for the parochial schools, a bacteriologist, custodians for the isolation hospital, five med-

²This includes the Board members themselves

³Burns Statutes Annotated 48-7402

¹The water is also tested by chemists in the Water Filtration Plant Laboratory

²Burns Statutes Annotated 48-7402

³City Government Directory, 1939



Chapter III

ical examiners for the parochial schools, an assistant secretary, and an assistant director. The titles of these employees indicate the nature of their work.

The Board of Health also is empowered by the law to provide for the regulation of plumbers, and for the inspection of plumbing in all buildings constructed or remodeled. This inspection is performed by an inspector of plumbing and house drainage, who is selected after examination by an examining board composed of three plumbers residing in the city, selected by the board.¹ The inspector must be "a practical plumber."

An act of the General Assembly in 1937 authorizes the Common Council to enact ordinances for the protection of consumers of coal and coke, through the licensing and regulation of retail dealers, on the suggestion of the Board of Health.

The local Board cooperates closely with the State Board of Health as well as the United States Bureau of Public Health in their efforts to stamp out disease throughout the country.

It has been notably successful in cutting down the number of deaths due to contagious diseases. This is particularly true of diphtheria and smallpox. The present secretary of the Board² has attempted to follow the leadership of eminent workers in the field of public health, notably that of Dr. Bundesen of Chicago.

No board is more important to the people of the city than the Board of Health.

Because of the importance of the work devolving upon the local board, the General Assembly has conferred a high degree of control over it upon the State Board of Health. As has been said, the State Board possesses the power to remove the city health officer and members of the local board from office in case of their failure or refusal to carry out the lawful orders and regulations of the State Board. Moreover, the latter may, whenever in its opinion it becomes necessary because of the failure or refusal of the local health authorities to enforce State Board rules and regulations, or because in its opinion an emergency exists, itself enforce its regulations locally and charge the cost to the city.³

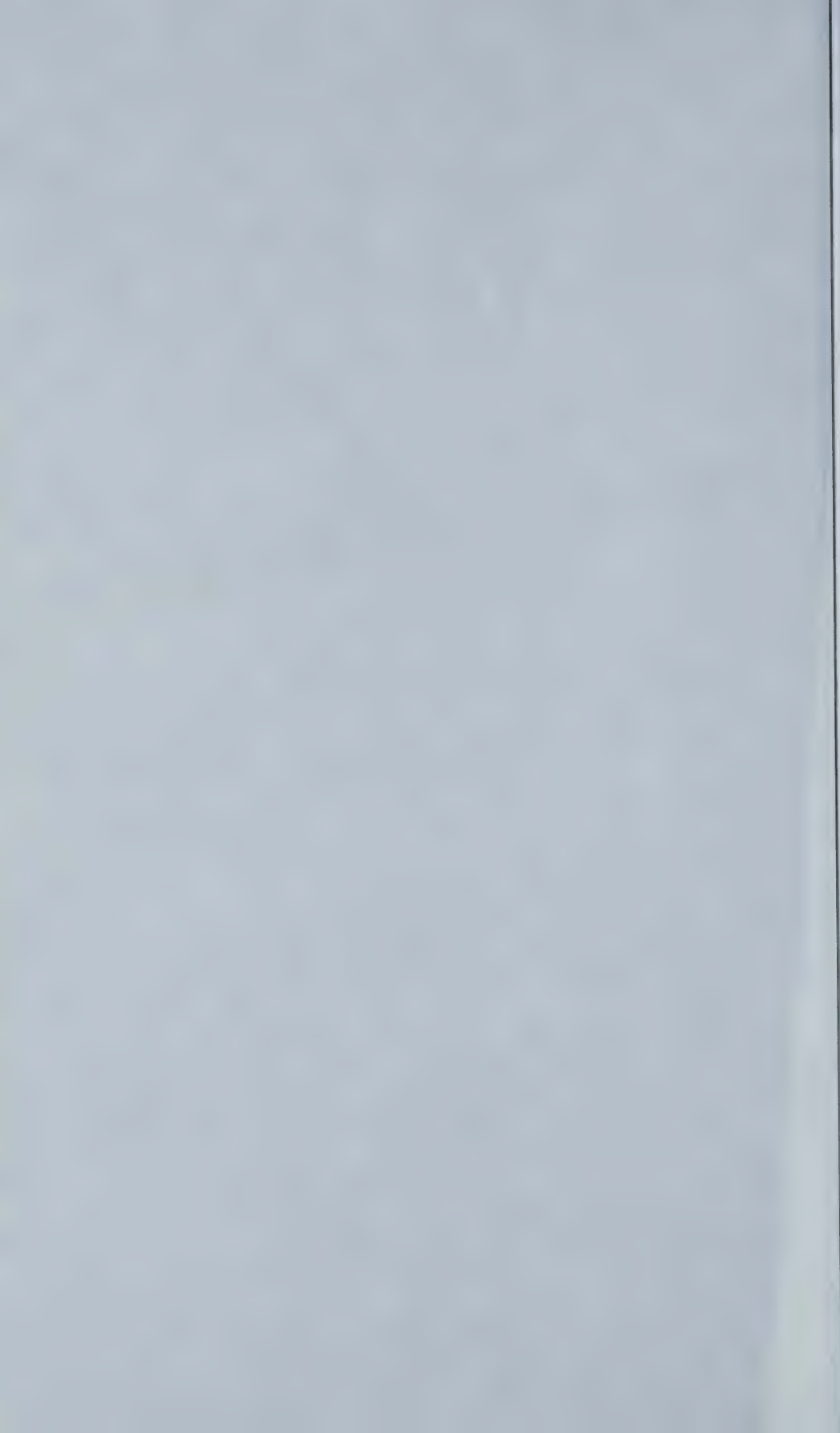
THE CITY PLAN COMMISSION—In 1921, the General Assembly of Indiana placed upon the statute books an act which authorized the Common Council of every city in the state to establish a city plan commission.⁴ Acting under this authority the Common Council of Fort

¹Burns Statutes Annotated 48-7402

²Dr. Karl Eberly

³Acts of 1935, Chap. 217, Sec. 9, P. 1032

⁴Burns Statutes Annotated 48-2201-2211



Chapter III

Wayne passed an ordinance in 1928 establishing the local "city plan commission."

Composition—This commission consists of nine members, five of whom are appointed directly by the Mayor, and four of whom represent other agencies of city government. The five members appointed directly to the commission by the Mayor must be private citizens "qualified by knowledge or experience to act in matters pertaining to the development of a city plan." The four additional members are (1) a representative of the City Council and a member of it elected by the Council (2) a representative member of the Board of Park Commissioners elected by the commissioners (3) the president of the Board of Public Works, and (4) the city engineer.

The commission is assisted by a consultant, a secretary and a clerk, all of whom are selected by the commission itself.

Term of Office—Like all major administrative officers of the city, the members of the planning commission are appointed or elected to four-year terms. The four city officials who are named to the commission serve so long as they retain their other positions in the administration, but in no case longer than four years. The terms are staggered to insure an experienced board.

Members of the commission may be removed by the Mayor if they are guilty of inefficiency, neglect of duty, or malfeasance in office. But the charges against them must be filed with the commission in writing, and a hearing held subsequently before it.

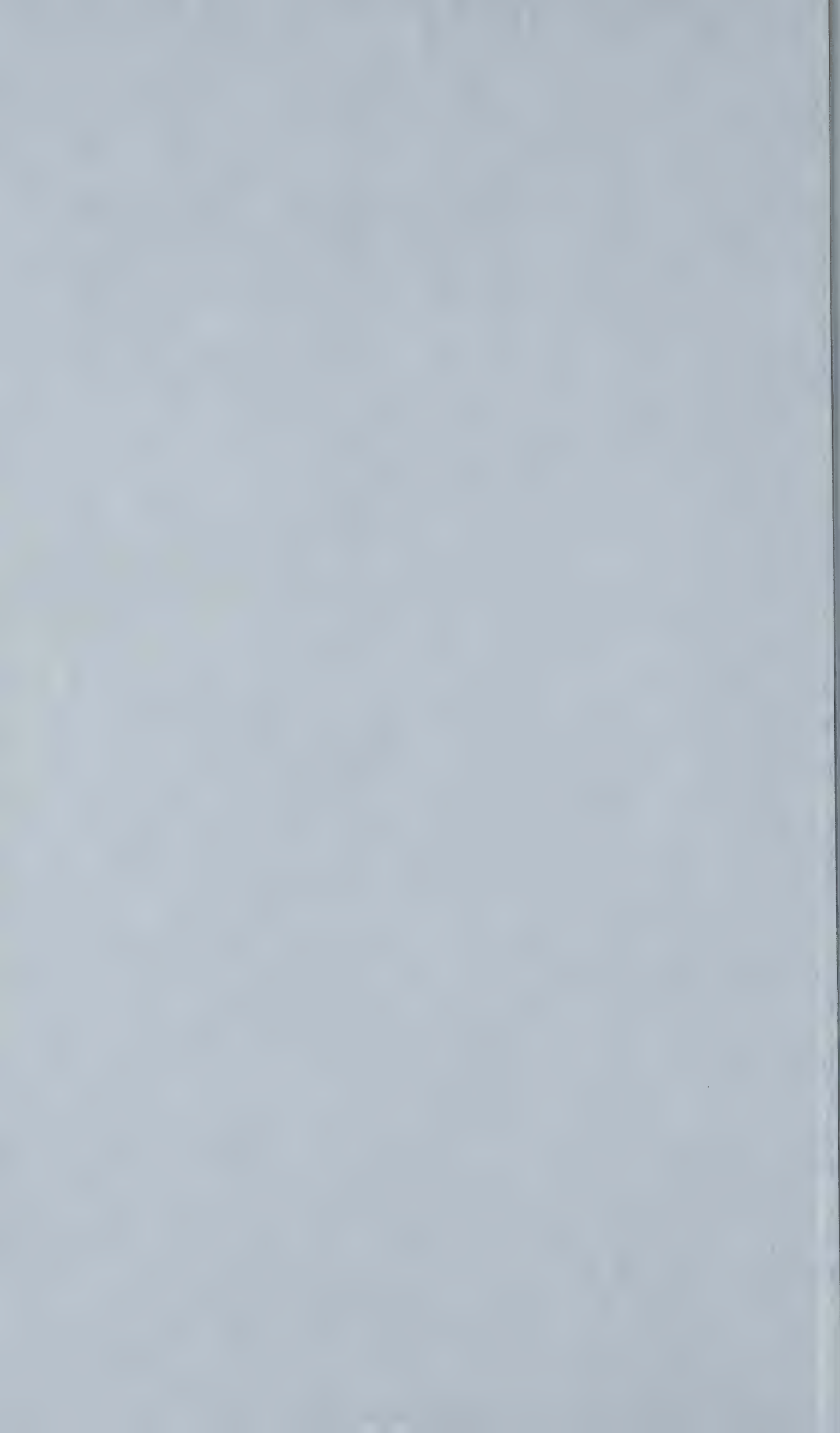
Salaries—Members of the commission serve without compensation. Their actual expenses are paid, subject to the approval of the Mayor.

Organization and Meetings—The Common Council is charged by law with providing a suitable place for the meetings of the commission and for the keeping of its plans, drawings, and records. At the present time the commission meets in the City Hall. It determines the time and frequency of its own meetings.

It elects its own president and vice-president annually in February. A majority of the members constitute a quorum. But no binding action may be taken unless such action is authorized by a majority of the entire commission.

Powers and Duties—The primary function of the commission is simply to do what its title implies—to provide a comprehensive plan for the future development of the city which will conserve or augment property values, promote safety, expedite traffic, protect the public health, aid in the eradication of crime, and finally, but not least, promote civic beauty.

In order to achieve these objectives the commission is authorized to employ attorneys, engineers, architects, landscape engineers, and whatever other professional people and laborers may be necessary to assist it in the making of surveys and the preparation of plans.



Chapter III

It is empowered to prepare ordinances "regulating the height, area, bulk, and use of buildings; the use and intensity of use of land by districts within the city; the regulation within districts of the area of yards, courts, and other open spaces; classify, regulate and restrict the location of trades and callings, industries, and commercial enterprises, the location of buildings designed for specific uses, etc.,"¹ all to the end that the health, safety, comfort, morals, convenience, and general welfare of the community may be promoted. Such ordinances when passed by the Common Council become the law of the city.

It is obvious that such ordinances may go very far in regulating the use of private property. A few years ago they were quite generally attacked in the courts as being violations of the "due process" clause of the national constitution² which forbids any state to deprive any person of life, liberty, or property without due process of law. But the courts have generally held that, while such ordinances must be strictly construed and not arbitrarily enforced or applied, and must provide an opportunity for appeals from the rulings of the enforcing officials, their constitutionality is unquestioned provided their provisions are reasonably designed to promote the health, safety, moral, and the general welfare of the community.³

A comprehensive zoning ordinance prepared by the local plan commission was passed by the Common Council in 1928. This ordinance divided the city into six different height, use, and area districts, prescribing the uses to which property may be put and the amount and portion of land which may be used for building purposes in each zoned district.⁴

The commission may devise supplemental plans or regulations and suggest them to the Common Council for action. But amendments to or changes in the zoning regulations cannot be made by the city plan commission on its own motion.⁵ Changes must be made by city ordin-

¹Burns Statutes Annotated 48-2206

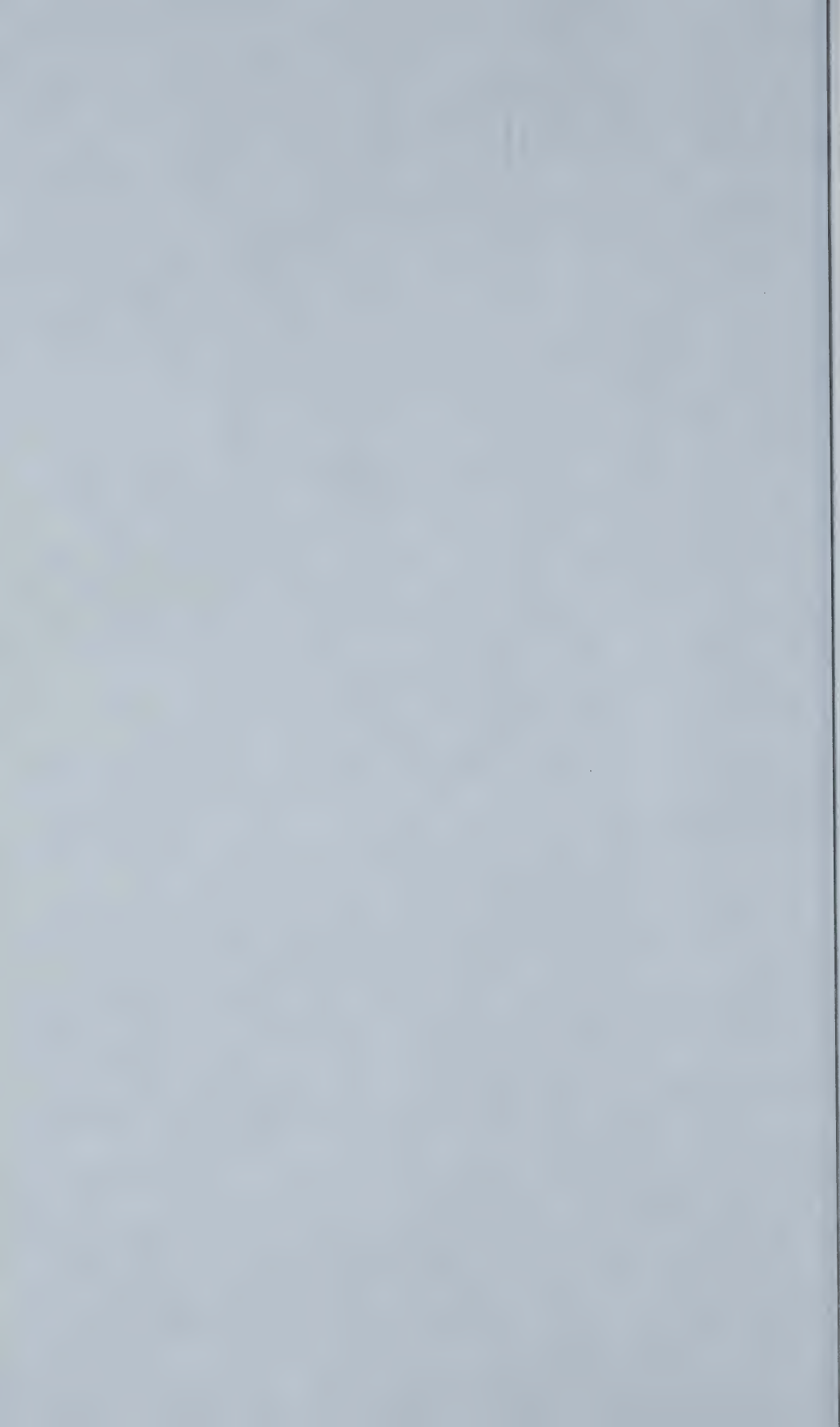
²Fourteenth Amendment, Sec. I

³Indeed the Supreme Court of the United States has even implied that aesthetics may be a major consideration of zoning ordinances (though not the sole consideration), in the case of *Euclid V. Ambler Realty Co.* 272 U. S. 365, on the subject of zoning.

The opinions of the Supreme Court as expressed on the subject of zoning in the following cases are interesting even to the layman uninterested in law generally: *Nectow V. Cambridge*, 277 U. S. 183; *Gorieb V. Fox*, 274 U. S. 603; *Washington ex rel. Seattle Title Trust Company V. Roberge*, 278 U. S. 116; and the *Euclid V. Ambler* case.

⁴These regulations cannot be made retroactive. Nuisances, of course, can be condemned at any time by proper action.

⁵This is the case even in those cities in which the city plan commission also acts as a board of zoning appeals.



Chapter III

ances amending the original zoning ordinance.

Before any changes are made by the Common Council, the proposed changes must be referred to the city plan commission for consideration and report. If the commission reports adversely upon the proposed change, a three-fourths affirmative vote of the council is required to pass the ordinance. Seven days' notice of proposed changes must be given by publication in two newspapers of general circulation in the city.

Whenever fifty percent or more of the property owners, whose property fronts on the street affected by the proposal, petition the Council for a change in the regulations, the Council must vote on the proposed change within ninety days. But if twenty per cent of the property owners affected thereby petition against the change, a three-fourths majority vote by the Council is required to make it.¹

Financing the Commission—The Common Council appropriates annually from the general fund of the city a sum sufficient to meet the needs of the City Plan Commission. A special tax levy is included in the budget to raise the necessary funds. The local levy is low, being only about two mills on each one hundred dollars of taxable property.

The commission has complete and exclusive control over the use of these funds, but must make a complete financial report to the Mayor annually in February.

THE BOARD OF ZONING APPEALS—The act of 1921, previously referred to, authorized the creation of a Board of Zoning Appeals in each zoned city to hear appeals from the rulings of those administrative officials charged with enforcing the zoning ordinance.² The act provided that the city plan commission might, by ordinance, be permitted to serve as a Board of Appeals also, or, if desired, a separate and distinct board might be created.³ The Common Council of Fort Wayne has followed the second course and created a separate Board of Zoning Appeals consisting of five members appointed by the Mayor for terms of four years. Two of the members are also members of the City Plan Commission. And not more than two may hold any elective or appointive office in the city government.

Functions—It is the business of this board to temper the application of the zoning ordinance with reason. It may hear and determine appeals from any review and order, requirement, decision, or determination made by an administrative official or board, in the application of the zoning ordinance. It has the power to permit minor ex-

¹Burns Statutes Annotated 48-2303

²The enforcement or application of the zoning ordinance in Fort Wayne is largely in the hands of the Building Commissioner.

³Burns Statutes Annotated 48-2304

co
ol
n
th

ol
a

te

th
te
E
M
fi

b
h
p

p

s
le

t

t
r
e

t
e
r
l
f
a
r

Chapter III

ceptions to, or variations from, the district regulations in the classes of cases, or in particular situations specified in the ordinance. It may not, however, make any major changes, such as altering the districts themselves.

Every decision of the Board is subject to review by the circuit or superior court on a writ of certiorari at the request of the parties affected or of the city. The court may affirm, or reverse, or modify the decision of the Board of Zoning Appeals.¹

Appeals from the circuit or superior court's decision may be taken to the Supreme Appellate court of Indiana.²

AVIATION BOARD—The General Assembly in 1929 authorized the creation of a department of aviation in all second class cities maintaining a municipal airport. The department is presided over by a Board of four members, equally divided politically, appointed by the Mayor. The term of service is four years. Members may be removed from office by the Mayor for reasons stated in writing to the city clerk.

The Board members serve without compensation. They are reimbursed for their actual expenditures provided they do not exceed six hundred dollars—an average of one hundred fifty dollars per member per year.

The Board elects its own officers annually. It fixes the time and place of its meetings.

As in the case of other boards, a majority of the members constitute a quorum; but no action taken is binding upon the Board unless supported by the votes of a majority of the members.

The work of the Board is financed by a special tax levy fixed by the Council upon recommendation of the Board.³

Functions—The work of the Board may be summed up by saying that it may, subject to national and state laws and local ordinances regulating air navigation, do whatever may be necessary to insure the city adequate aviation facilities.

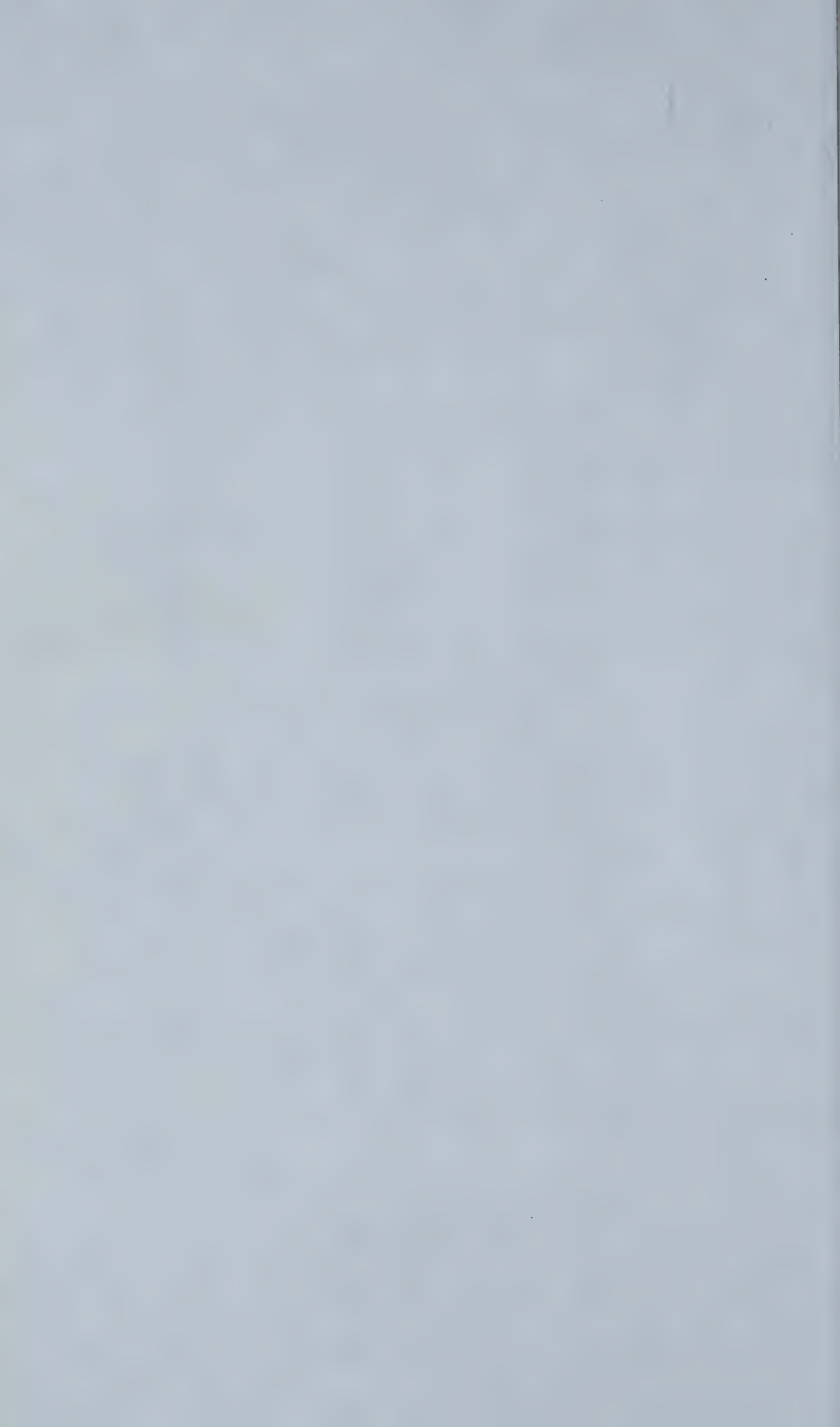
It may purchase or lease land within the city, or within six miles thereof, drain, grade, and otherwise improve it, erect hangars and other buildings, construct runways, sell or lease concessions, and make rules for the management or use of all properties under its control. Its control over the airport and its environs (to a distance of 1500 feet) is equivalent to that which the Park Board exercises over lands and other properties under its control. The sale of land by the Board must be authorized by the Common Council by ordinance.⁴

¹O'Connor V. Overall Laundry Inc. App. 183 N. E. 134

²See Burns Statutes Annotated 48-2304-5

³Burns Statutes Annotated 48-Supp. 14-501-3

⁴Burns Statutes Annotated 48-Supp. 14-505



The Board may force the removal by condemnation proceedings, or prevent the erection by injunction, of any hazards or obstructions to air navigation within a zone fifteen hundred feet wide surrounding the airport.

The Municipal Airport—Baer Field, the Municipal Airport of Fort Wayne, developed and controlled by the local Aviation Board, is one of the finest municipal airports for cities of this size in the United States. It is located about two miles north of the city between State roads 27 and 3. It covers two hundred sixteen acres which have been cleared of obstructions, ditched, and graded. An eighty-acre reserve area lies ready to be developed in case of need. More than twelve thousand three hundred feet of asphalt runways have been constructed. Hangar accommodations for twenty-five planes have been erected. The local Board cooperates with the United States Weather Bureau to maintain a regular weather and meteorological station. Beacon floodlights have been set up, and a competent personnel has been employed.

That the Aviation Board functions effectively is evident to anyone who visits the airport. Its importance is already recognized. But in the immediate future when an air-minded generation has come into control of things, and air traffic has become commonplace, as seems likely, the work and foresight of the Aviation Board will be more widely appreciated than it is now. In time it is hoped the airport will become self-supporting. At present it is financed largely by a tax levy. About 40% of the cost is derived from the sale of gas, concessions, etc.

THE CITY CONTROLLER—One of the most important positions in the entire administration is that of the city controller. The controller is the head of the department of finance, and as such is responsible directly to the Mayor, who appoints him, and indirectly to the people for the good ordering of the finances of the city.

He is the head bookkeeper of the city. It is his duty to prescribe the form of reports and accounts to be rendered to his department,¹ audit the accounts of the other city departments and trusts, sign and issue all orders for money drawn on the city treasury of which he is the watchdog, and all city licenses sold by the treasurer, examine the tax duplicates in the hands of the county auditor and county treasurer to see that they are correctly made out so far as city taxes are concerned, examine the county assessor's records for the same purpose, and the treasurer's accounts of city funds. He also has general charge of the collection of Barrett Law Assessments,² and prepares the tentative city budget and tax levy.³

¹Nearly all the forms used for reports by the controller's office are prescribed by the State Board of Accounts.

²Assessments levied against properties to pay for improvements made by the city—paid on the installment plan.

³Burns Statutes 48-1602

Chapter III

Preparation of the Budget—Since the preparation of the city budget and computation of the necessary tax levy are matters of interest and concern to every citizen and entail considerable work and some worry on the part of the controller it is well to know something of the procedure involved.

The various steps in the preparation of the budget are roughly as follows: About the middle of the city's fiscal or business year (usually in July or August), the controller requests each spending agency of the city government to submit to him an itemized estimate of the amount of money which will be required for its efficient operation during the coming year. These reports, or departmental budgets, are made upon forms prescribed by the State Board of Accounts. When all these reports have been made, the controller meets with the Mayor and principal administrative officers for general discussion of the various departmental budgets. Following this, the controller combines these budgets into a single tentative budget for the city, reducing such items as may seem advisable to him, or those which he has been advised to reduce at the preceding general meeting.¹

When the total amount necessary for the operation of the city government for the ensuing year is thus discovered and the estimated year-end balances, and funds derived from other sources than the local tax levy (approximately 26% of the total) have been deducted therefrom, it is possible to compute the tax levy necessary by dividing this total by the net value of the taxable property within the city.²

When the amount of money necessary, and the tax levy required to raise it, have been computed, two ordinances are prepared for the Mayor who submits them to the Common Council for approval at its next meeting. One of the ordinances is a general appropriation ordinance or "budget ordinance" allocating the general fund among the various departments and to the various items requested in the budget. The other is an ordinance fixing the tax levy.

Public notice is then given that the council will meet to consider the budget, and the general public is given an opportunity to appear and object to or approve the budget as it stands. After public hearing and careful study (at least theoretically) by the council, the ordinances are passed either as submitted or in altered form. The budget

¹He may lower but not raise them. Burns 48-1506

²The levy is computed on the basis of \$100 units however. It should be noted also that such items as probable tax delinquencies must be taken into consideration in fixing the levy—or reductions in valuations. Current delinquencies are partially balanced by payment on previous delinquencies. Mortgage and soldiers' exemptions must be deducted.



Chapter III

ordinance as passed may lower the amount allocated to any item below the controller's recommendation.¹ But the council may not raise the amount except upon the specific recommendation of the Mayor.

When these ordinances have been passed by the council, the budget and tax levy for the ensuing year are formally fixed.² But this does not mean that they are irrevocably fixed. For the tax levy as fixed by the council must be reported to the county auditor "not later than two days prior to the second Monday in September." The county Board of Tax Adjustment then considers the budget and levy, reducing any items it may think advisable. But even then the levy fixed may not be final. For if ten or more taxpayers feel "aggrieved" by such levy they may appeal to the State Board of Tax Commissioners for further and final hearing, by filing a petition with the county auditor not later than October 15. The State Board of Tax Commissioners will then send one of its members or a field examiner to the city to conduct a public hearing on the tax levy. This member reports back to the whole board which, after careful consideration, fixes the levy finally and irrevocably.

It is evident from this brief outline that the local tax levy may have to travel a devious and rocky road and climb over several hurdles before it is finally fixed. The taxpayer has surrounded himself with numerous boards and commissions as protection against excessive tax levies on the part of "the government" which he traditionally distrusts. They function effectively. But no matter where the levy is finally fixed the taxpayer is likely to believe it is still too high. While those who are charged with the responsibility of carrying on the manifold functions of local government efficiently are likely to feel that they are unduly handicapped at times by excessively low levies fixed by interfering, non-resident boards which are unfamiliar if not unsympathetic with local conditions and needs. All that can be said is "twas ever thus."

The comptroller is charged with keeping a register of all bonds issued by the city government, and with recommending the proper provision for paying off the city's indebtedness. The bonded debt of the city on January 1, 1939, was \$2,344,000.00. About \$1,787,000 of these bonds were issued to pay for the water filtration plant and are being paid off by service charges to water consumers instead of by

¹Even after the budget is fixed, the Common Council by ordinance or the Mayor by executive order may decrease the appropriations made for the use of any department or item thereof. (Burns Statutes Annotated 48-1506)

²Emergency appropriations may be made later by a two-thirds vote of the Council on the recommendation of the controller. (id).



Chapter III

taxation. Nevertheless the bonds are direct obligations for which the civil city is liable.

The Controller as Vice-Mayor—It should be pointed out in connection with the controller's duties and functions that he serves also as Vice-Mayor. That is, he acts as Mayor in the absence of the Mayor, or in case of a vacancy in the mayoralty.¹

THE BOARD OF SCHOOL TRUSTEES²—The government of the public schools in Fort Wayne is vested in a Board of School Trustees consisting of five members appointed by the Mayor, but not removable by him. Not more than three members may belong to the same political party.

Qualifications of Members—Members of the Board must be at least twenty-five years of age, and must have been residents of the city for three years immediately preceding appointment. They are ineligible to hold any office under the Board of Trustees, or with the city government, while serving on the Board. Nor are they permitted to have any interest in any contract with, or claim against, the school city either directly or indirectly.³

Each member is required to take an oath before assuming office that he will not acquire any interest in contracts let by, or claims against, the Board; and that "he will not be influenced during his term of office by any consideration of politics, of religion, or anything except that of merit and fitness in the appointment of officers, and the engagement of employees."

Compensation—The members serve without other compensation than the thanks of a satisfied and appreciative public, and these are usually forgotten and must be taken for granted.

Term—Each member of the Board is appointed for a term of four years. The terms are staggered, however, to insure a majority of experienced members. Appointments are usually made in July of each year.

Organization—The Board is reorganized annually at its meeting held within the first five days of August. At this meeting it elects a president, secretary, and treasurer. (The president and secretary are required to give bond of twenty-five thousand dollars. The treasurer's bond is fifty thousand dollars. These bonds are paid for out of the special school "revenue" of the city.)⁴

Functions—The function, in general, of the Board of Trustees is to provide the school children of the city with the best and most

¹Burns Statutes Annotated 48-1246

²Burns Statutes Annotated 28-2201-11

³But this does not bar bankers whose banks are depositories of school funds.

⁴Burns Statutes Annotated 28-2205

jue
 rni
 nt
 su
 lyi
 ppi
 x l
 mi
 ju
 loc

 gw
 m
 e t
 an
 ro

 in
 e
 ro
 el
 de
 vi

 llo

 in
 is
 op
 m
 le
 in
 lo
 ho

 je
 e
 el
 e

 t

Chapter III

education possible at the least cost. It must, in the final analysis, determine how much and what type of education will be offered to the youth (and increasingly to the adults) of the community. It employs a superintendent of schools, whose function is to act as an expert adviser to the Board in educational matters, formulate policies for its approval, and administer the system, directing a staff of more than six hundred teachers, supervisors, clerks, testing specialists, engineers, janitors, carpenters, and other employees. It provides buildings and educational equipment. Its tax levy is higher than that of any other Board.

The School City a Separate City—It should be pointed out, however, that the school city since 1921 has been separate and distinct from the civil city. The Board of School Trustees is not responsible to the political or civil city. It prepares its own budget and tentative tax levy for presentation to the county auditor. It has complete control of the funds thus raised.

In one respect this control exceeds that of the civil city over its funds. For the latter may not transfer funds raised for one purpose to a different use. While the Board of School Trustees may make temporary loans from the building fund for the aid and use of the special school fund and for the tuition fund, or vice versa by a majority vote declaring an emergency and ordering the transfer. The loans are made without interest.

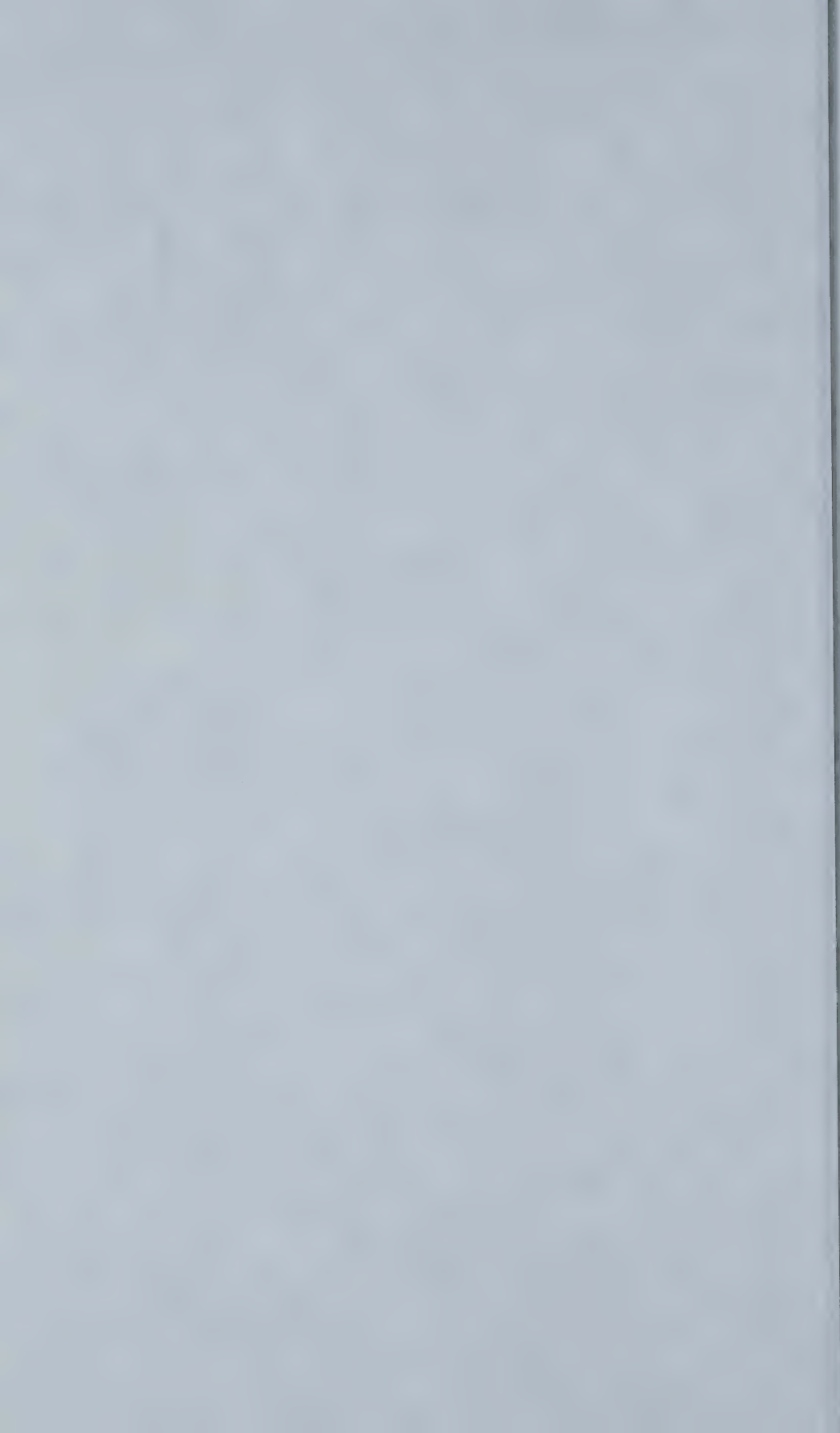
The Board, of course, is restricted and directed in its activity by the general schools laws of the state applicable to the city.

THE CITY ATTORNEY—Great care must be exercised by the city in the letting of contracts and franchises, the preparation of bond issues, the examination of abstracts of title when streets are to be opened or widened, etc., in order to protect itself (the citizens) against illegal procedures which would render the city liable for damages. It must also make some provision for the prosecution of violators of city ordinances in the municipal (or police) court. The Mayor therefore appoints for these and other purposes, a city attorney, who is the head of the department of law of the city.

Like other appointive officers or agents of the city, the attorney is appointed for a term of four years, though he may be removed for cause before the expiration of his term. It goes without saying that the person so appointed must be a practicing attorney supposedly competent in the field of law.

The attorney is authorized by state law to appoint as many deputies as the council will by ordinance authorize.¹ At the present time he

¹He may collect prosecutor's fees of \$5.00 per case where no deputies are provided.



Chapter III

is assisted in the performance of his duties by two associate city attorneys and a secretary. Although the law says the attorney himself may appoint his deputies, the appointments are made, like others, with the good of the local political organization in mind, and with its consent. Provided the appointments are needed and are honest and competent this works no injury to the citizens.

The maximum salary of the city attorney is fixed by state law. The actual salary is fixed by local ordinance within this limit.

Functions—The functions of the city attorney have just been partially set forth. They include the following: The management and control of the law business of the city, and each branch of its government; acting as legal adviser to the various departments and offices; drawing up leases, deeds, contracts, ordinances, and other legal papers; acting as custodian of all papers pertaining to his position; conducting legal proceedings for the city, and defending it in court when necessary; examining abstracts of title for the Board of Works whenever required by any prospective improvement; and prosecuting violators of city ordinances in the city court.¹

As this list of duties indicates, he is a very busy official. He maintains his own private practice in addition to his official duties.

THE CITY CLERK—One of the principal administrative officers of the city is the clerk. Unlike the various boards and officials whose functions have just been outlined, the clerk is an elective rather than an appointive official. He is one of the four officers elected directly by popular vote.² He is elected at the same time as other city officers, and serves four years. His salary is fixed by ordinance within the limits fixed by state law, as is that of his deputy (or deputies).

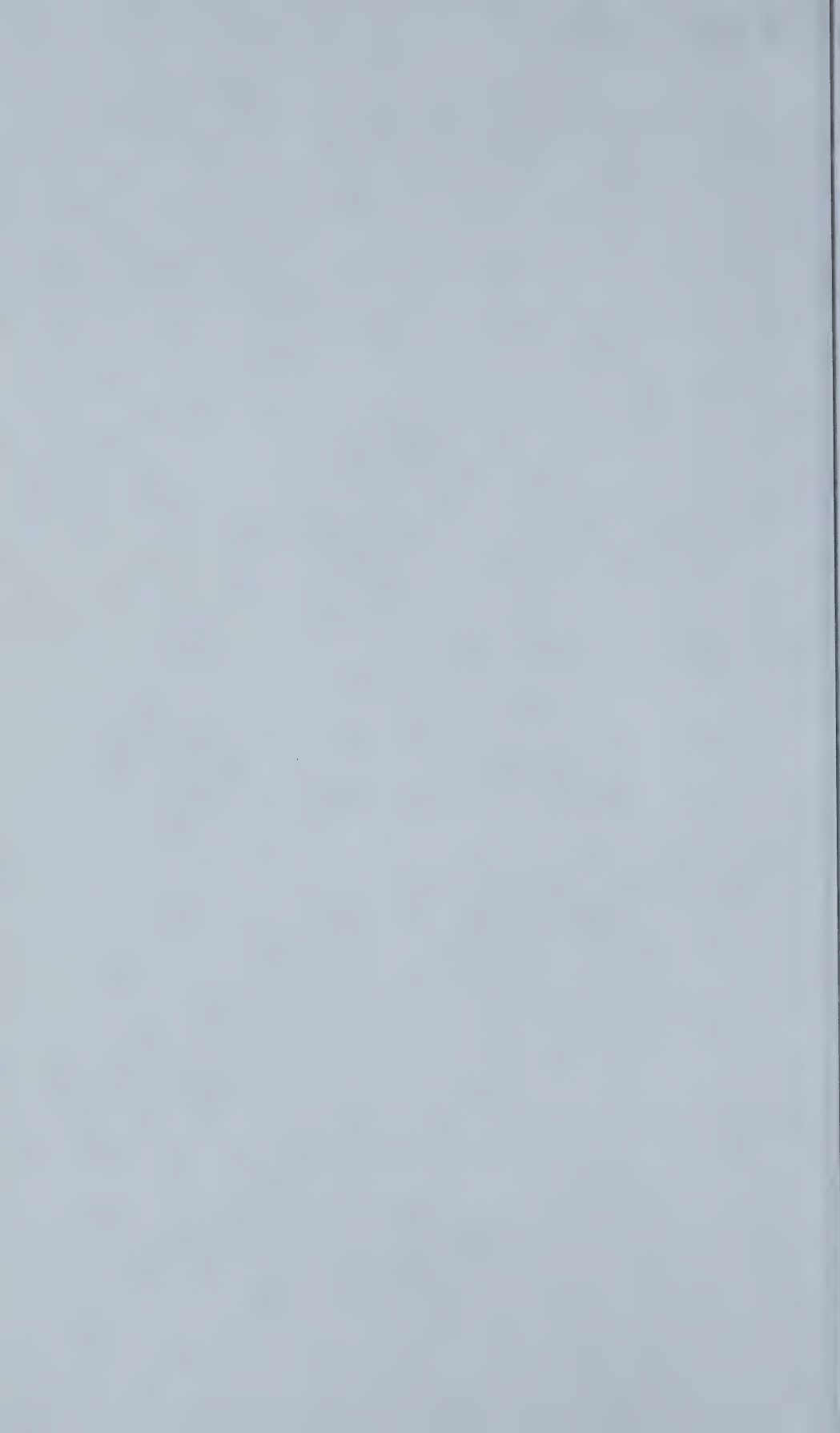
The functions of the clerk as clerk of the Common Council have been previously enumerated,³ and need not be repeated. But nothing has been said of his functions as clerk of the city court, which position he also occupies. As clerk of the court it is his duty to administer oaths, issue all legal papers of the court, act as custodian of the seal of the court, and use it in the attestation of legal papers; keep a complete record or docket of all cases coming before the court showing what persons were arrested, the offences charged, the final disposition of the cases, and an accounting of the fees, fines, penalties, forfeitures which he must pay over weekly to the proper official,⁴ and make a

¹Burns Statutes Annotated 48-1801-1803

²The others are the Mayor, Councilmen, and Judge.

³See Chapter 2, Page 6

⁴The county treasurer,—or the prosecuting attorney for prosecuting attorney for prosecution of violators of state laws, or the city controller.



Chapter III

monthly report to the county treasurer of all moneys collected and disbursed.¹

The clerk's position is one of considerable responsibility. For upon the accuracy of his records may depend the final outcome, involving considerable sums of money or the legality of some official action. For example, whenever any court is compelled to pass upon matters involving the question of whether or not they have been legally authorized by ordinance the clerk's records as clerk of the Common Council are usually accepted as final proof of the action previously taken by the Council. An incorrect entry on the records of the court might also mean a serious miscarriage of justice.

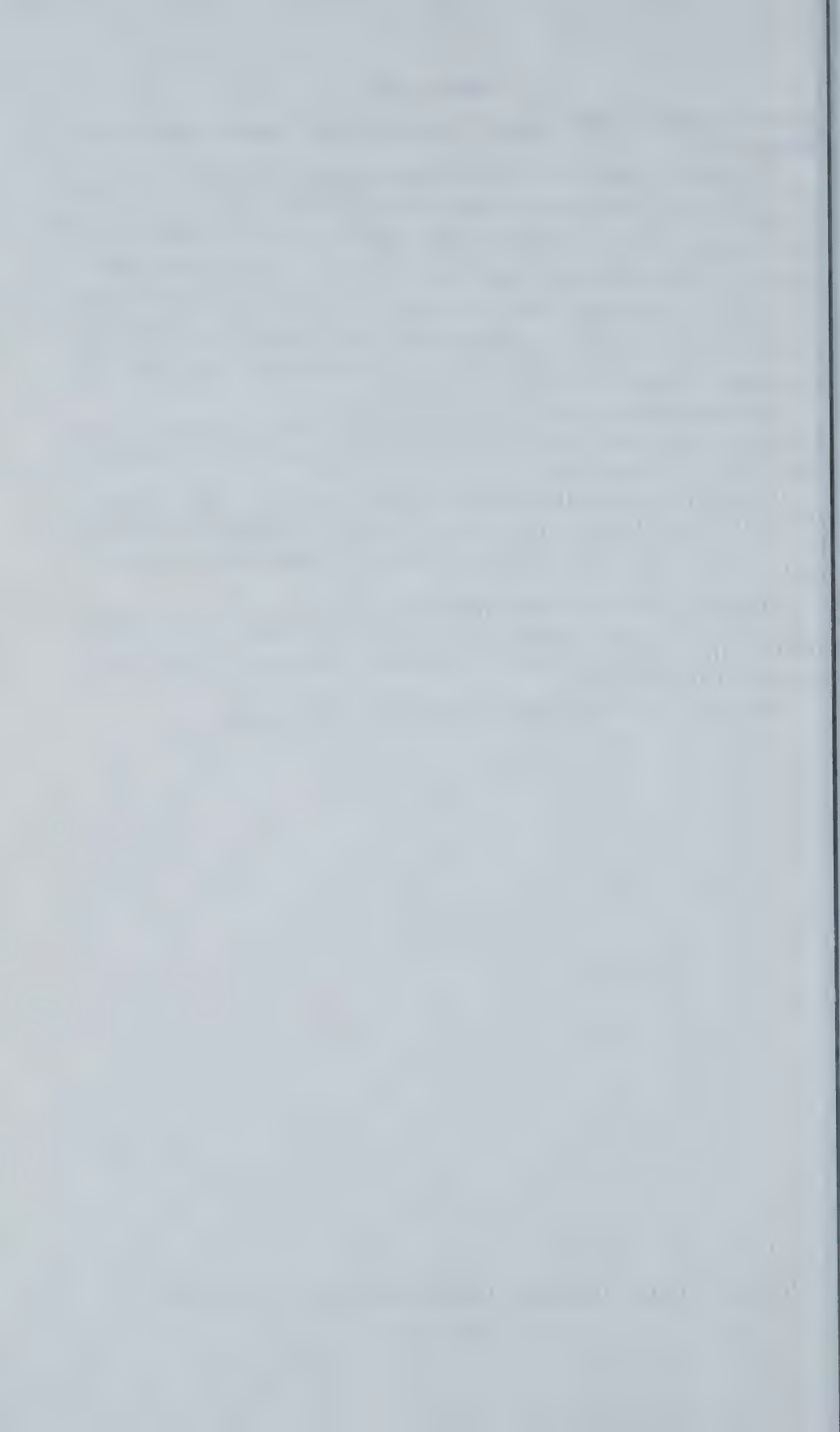
The clerk also handles very considerable sums of money, (many hundreds each week) collected in the regular course of his duties, for which he is responsible.

Considering these things it is obvious that the public should exercise discrimination in the election of the city clerk and then furnish him with the necessary equipment and aid to perform his functions well.

Whereas the Mayor may rightly be held responsible for the fitness, enthusiasm and industry (or lack of it) of other administrative officials, the people have only themselves to blame or praise for the conduct of the clerkship.

The city clerk at present is assisted by one deputy.

¹Burns Statutes Annotated 4-2406. Acts 1925, 219; 1927, 241



The Judicial Department of the City Government

THE CITY COURT—The judicial power of the city is vested in the city court which is presided over by a Judge elected by the voters of the city for a term of four years. The Judge is a practicing attorney (who usually continues his private practice after election) and must possess the residence qualifications established for other elective city officials. His term begins at noon on the first Monday of January following the election.

Since the Judge is not appointed by the Mayor, he is not responsible to him but to the people directly. He cannot be removed by the Mayor, nor can the latter—or the Common Council—fill any vacancy which may occur in the office. In case of vacancy the Governor of the state makes an interim appointment.

Sessions of the city court are held daily, (Sundays excepted), in the court room or council chamber on the second floor of the City Hall.

The court has exclusive jurisdiction of all violations of city ordinances¹ and all misdemeanors constituting violation of highway traffic ordinances of the city and of the highway traffic laws of Indiana. It has original concurrent jurisdiction with the circuit court in all cases of petit larceny and all violations of the laws of the state where the penalty cannot exceed a fine of \$500 and imprisonment in the jail, or workhouse for six months.

The Judge possesses powers equivalent to those of Justices of the Peace in all cases of crimes and misdemeanors within the county with such specific exceptions as are made by state laws. The Judge may bind people charged with offenses to which his Judicial power does not extend over to the proper court and hold them in bail, (or jail, in the absence of bail).²

The city court, as has been noted, is a court of record. And all judgments, decrees, etc. have the same force and effect as those of the circuit court, except that no judgment of the court may be made a lien against real estate unless, and until, a transcript of the judgment is filed in the office of the clerk of the circuit court.³

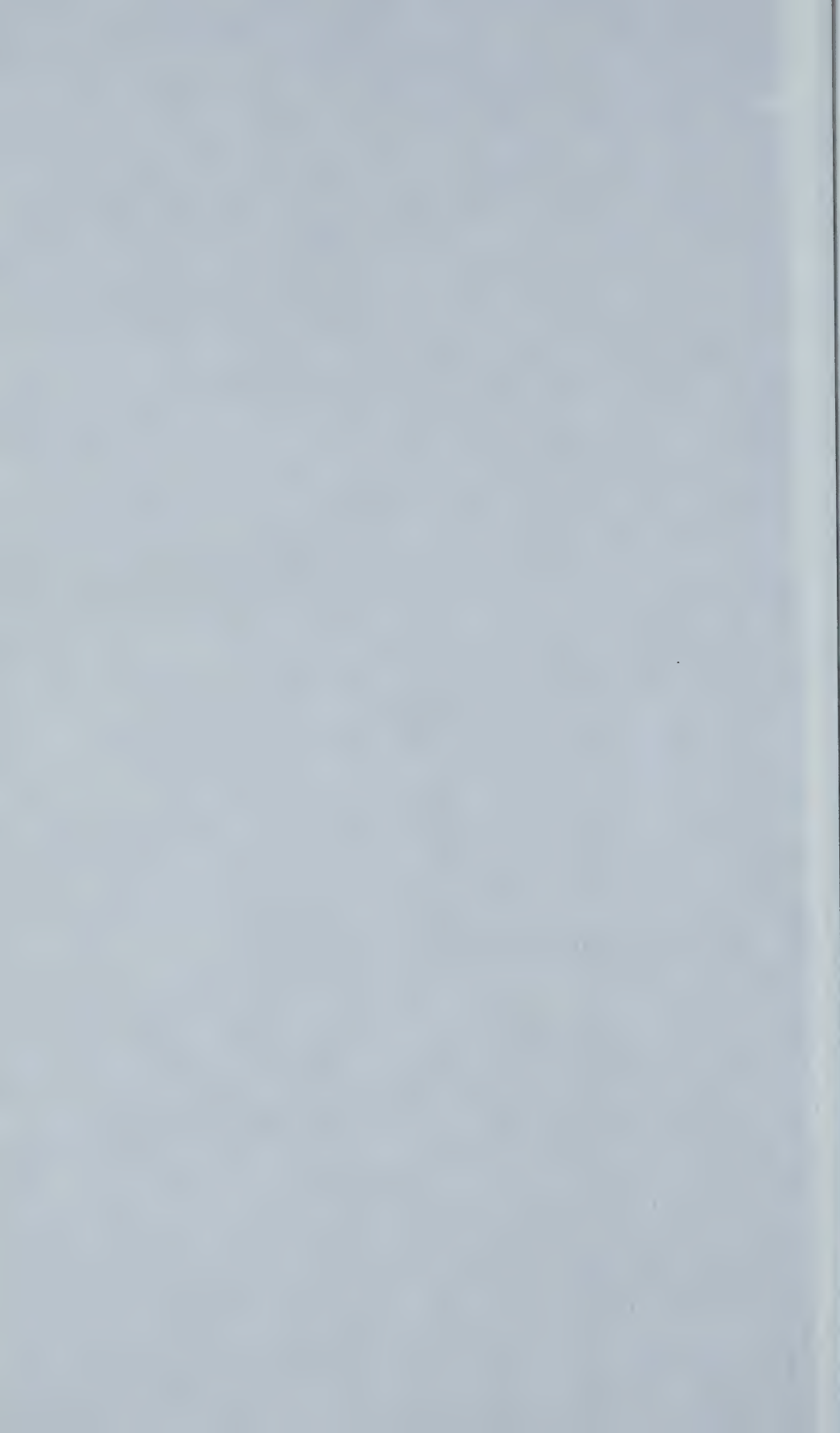
No change of venue may be taken from the city court. But special Judges may be appointed upon request. In case of temporary absence or inability of the city Judge to act he may appoint any reputable practicing attorney special Judge to preside and exercise his powers.

The salary of the Judge is fixed by state law, or by ordinance within the limits fixed by state law. Special judges receive the same

¹Burns Statutes Annotated 4-2402

²Acts of Indiana General Assembly, 1939, Ch. 7, Sec. 1, P. 13

³Burns Statutes Annotated 4-2401



Chapter IV

compensation as special judges in the circuit court. This compensation is paid out of the city treasury on the certificate of the Judge and warrant of the controller. A docket fee of five dollars is charged by the Judge in each case where a defendant has been tried and adjudged guilty. But all penalties and fees, including docket fees, are turned over to the city for its "use and benefit."¹

The office of city judge is very important. The effective enforcement of the city ordinances, and local respect for law and law enforcement agencies, depend very much upon him. A wise Judge, learned in the law, just, by instinct as well as by desire, humane in his attitude, properly appreciative of the responsibility of his office, can do very much to increase local respect for the law and improve civic conditions. One who is vain, unnecessarily harsh, or too lenient, arbitrary or capricious in his judgments, and without a proper sense of the dignity and responsibility of his position may do much to destroy both.

THE BAILIFF—Other officers of the city court are the clerk and the bailiff. The work of the clerk has already been discussed.

The bailiff is the peace officer and errand boy of the court. He is a policeman detailed by the Chief of Police to act in that capacity.

He maintains order in the court, serves judicial processes of legal orders, has charge of all legal executions issued by the court, and keeps a record of them and of all moneys received by him, making a weekly report of the latter to the clerk who takes charge of the funds.

¹Burns 4-2403

²Burns Statutes Annotated 4-2406

Political Parties

Previous chapters have very briefly set forth the formal aspects of city government, outlining its organization and enumerating briefly the legal powers and duties of the various elective and appointive officials.

It is impossible, however, to understand the actual functioning of city government, or the government of any political unit for that matter, without knowing something of the organization and functioning of political parties. For back of the visible and publicly known agents of government, the officerholders, stands the political party or parties which elected them, suggesting appointments, directing their activities, approving or disapproving their judgments. The party is the starter, the motive power, and the driver of the machine of government. To a very large degree it is the actual government. Therefore one who would understand even a little about government must watch not only those usually regarded as "the government" but the political organizations behind them as well.

This does not imply that political parties are necessarily reprehensible organizations; nor that "politics" is always corrupt and unpatriotic. On the contrary, political parties are, in a democracy such as ours, a necessary institution. But they function best or most responsibly when closely watched.

The orders, directions, suggestions, and activities, of the leaders of political parties, whether they be officially elected leaders or self-appointed "bosses," are all directed to one primary end—the service of self-interest. Political leaders are apt to confuse their personal interests with interests of the party (or vice versa), and the interests of their party with the welfare of the State, or the well-being of the general public. Their personal interests lie in securing and retaining control over the government, and all the honor, power, and profit implicit in such control. This necessitates a strong party. And so far as the party in power is concerned, this requires on the one hand the apportionment of political plums—the spoils of party warfare—among the members of the organization in such a way as to cause the least amount of discontent and friction; and on the other hand the direction of affairs of government in such a way as to arouse as little antagonism as possible on the part of the public, which constitutes the rank and file of the parties. The party organization must, therefore, defer to public opinion insofar as it cannot mold it. If, therefore, government officials are inclined to be too arbitrary, or too lenient, or otherwise unsatisfactory, the party organization may exercise a restraining or stimulating influence over the elected and appointed officials which represent it before the public. If the party leaders fail to assume this

THE FUTURE

The future of the world is a subject which has attracted the attention of many writers. It is a subject which has been discussed in many different ways. Some writers have seen the future as a time of peace and prosperity, while others have seen it as a time of war and destruction.

One of the most common views of the future is that it will be a time of peace and prosperity. This view is based on the fact that the world has been at peace for a long time. It is also based on the fact that the world is becoming more and more prosperous. Many people believe that this trend will continue, and that the future will be a time of peace and prosperity. However, there are many who believe that the future will be a time of war and destruction. They believe that the world is becoming more and more divided, and that this will lead to war. They also believe that the world is becoming more and more crowded, and that this will lead to destruction.

There are many different views of the future, and it is difficult to say which one is correct. However, it is clear that the future will be a time of change. We must be prepared for this, and we must work to make the future a better one than the present.

The future of the world is a subject which has attracted the attention of many writers. It is a subject which has been discussed in many different ways. Some writers have seen the future as a time of peace and prosperity, while others have seen it as a time of war and destruction. One of the most common views of the future is that it will be a time of peace and prosperity. This view is based on the fact that the world has been at peace for a long time. It is also based on the fact that the world is becoming more and more prosperous. Many people believe that this trend will continue, and that the future will be a time of peace and prosperity. However, there are many who believe that the future will be a time of war and destruction. They believe that the world is becoming more and more divided, and that this will lead to war. They also believe that the world is becoming more and more crowded, and that this will lead to destruction. There are many different views of the future, and it is difficult to say which one is correct. However, it is clear that the future will be a time of change. We must be prepared for this, and we must work to make the future a better one than the present. The future of the world is a subject which has attracted the attention of many writers. It is a subject which has been discussed in many different ways. Some writers have seen the future as a time of peace and prosperity, while others have seen it as a time of war and destruction. One of the most common views of the future is that it will be a time of peace and prosperity. This view is based on the fact that the world has been at peace for a long time. It is also based on the fact that the world is becoming more and more prosperous. Many people believe that this trend will continue, and that the future will be a time of peace and prosperity. However, there are many who believe that the future will be a time of war and destruction. They believe that the world is becoming more and more divided, and that this will lead to war. They also believe that the world is becoming more and more crowded, and that this will lead to destruction. There are many different views of the future, and it is difficult to say which one is correct. However, it is clear that the future will be a time of change. We must be prepared for this, and we must work to make the future a better one than the present.

Chapter V

responsibility, the public is very likely to reward them by "turning the rascals out" at the next election and putting into office the opposition party whose leaders, if they are vigilant, have been aware of, and have helped add fuel to, the public's disaffection with the existing government by exposing its shortcomings, urging the public to "not go elsewhere to be cheated, come in here."

THE CITY COMMITTEE—The executive branch of each major political party locally is the city committee.

Composition—This committee is composed of all the members of the county committee¹ residing within the city and representing precincts lying wholly or in part within the city. If two or more members of the county committee reside in the same city precinct (for city elections only) the county chairman designates the one who is to serve as city committeeman. If this situation does not arise until after organization of the city committee, the city chairman designates the city committeeman. If no county committeeman resides in the city precinct, the county chairman, or the members of the city committee, designate some qualified voter of the precinct to serve as committeeman. If the county committeeman residing within any precinct does not care to serve as city committeeman the same procedure is followed in selecting the committeeman.²

Organization and Functions—At the head of the city committee is the chairman. He is elected by the members of the committee—ostensibly at least. It is his business to direct the conduct of the city campaign in such a way as to secure all the offices possible for his party's candidates. He is the general, or commander-in-chief, of the party army, organizing his forces into effective units, directing assaults on every doubtful salient, holding fire and conserving energies on the quiet or impregnable sectors, etc. He is ably assisted—or at least plentifully assisted—by a staff of advisers, official and unofficial, and by the corporals and sergeants who lead the forces in every city block and precinct. The staff is divided into various committees and bureaus such as the speakers' bureau, press and other publicity committees, finance committee, etc., in whatever way the ingenuity of the chairman and his intimate advisers suggest.

The chairman also nominates in writing those election officers to which his party is entitled to the Election Commissioners at least seven days before the election.

¹The county committee is composed of all precinct committeemen elected at the preceding primary by precincts, and all vice-committeemen (who must be members of the opposite sex) together with the officers they have elected to direct county party activities.

²The same provisions apply to vice-committeemen.

Chapter V

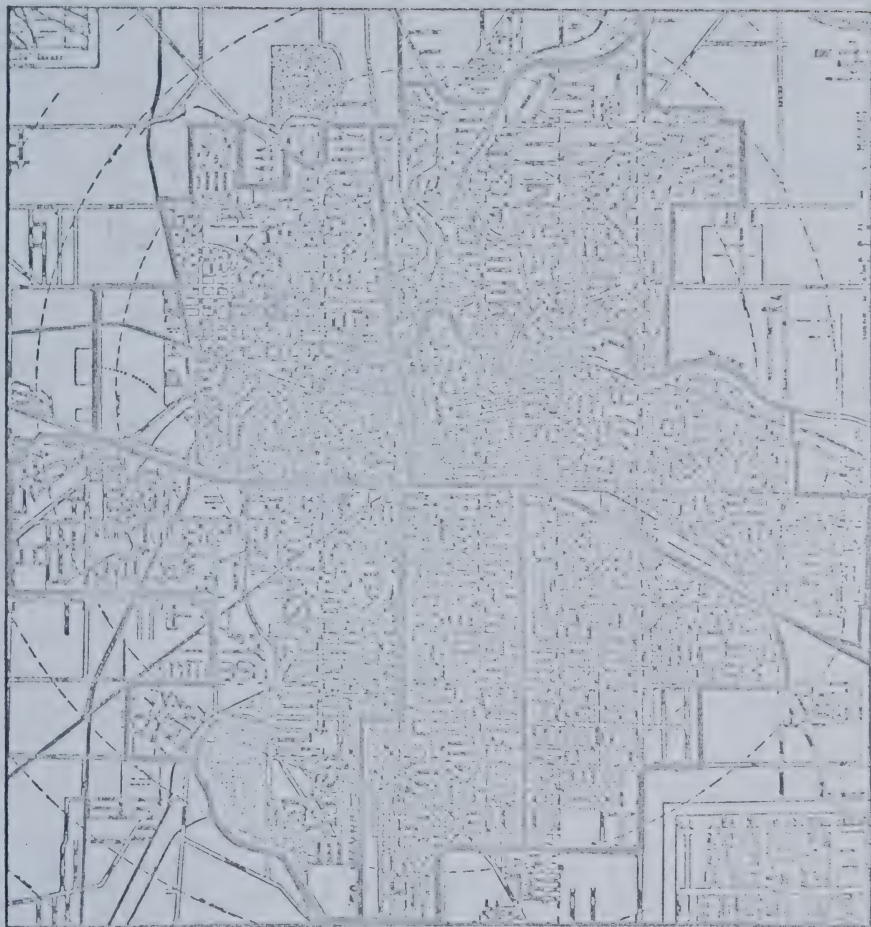
Other officers of the City Committee are a vice-chairman, who is usually a woman (must be of the opposite sex to the chairman) and directs the campaign among the female voters; a secretary, a treasurer, and whatever other officers the committee members think advisable.

This election of officers, and formal organization of the committee must occur not later than sixty days prior to the election.

In addition to the rules laid down by the General Assembly for the guidance of political parties, the city committee is governed by whatever rules the State Central Committee may care to formulate, provided these rules do not conflict with state law.

After the election has been held and the results determined, the party is likely to become less cohesive, less militant, and less energetic. The rank and file of voters in either party is bound to lapse into an apathetic attitude. But those who make politics their business have practically no other business if they are successful politically. They continue to eat, sleep, talk, and think in terms of what is politically expedient, even between elections.¹

¹This summary of the organization of the city committee is based upon *The Election Laws of Indiana*,--compiled by Gause and Spencer (1938) and the acts of 1939.



Map showing the councilmanic districts of Fort Wayne.





Map showing election precincts of Fort Wayne to illustrate their size.

--Courtesy News-Sentinel



